

State Bar of California

Analysis of 1988 Legislation to Increase Member Dues

Office of the Legislative Analyst
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Introduction

Introduction

The State Bar was established by the State Constitution as a public corporation in the Judicial branch of government. Membership in the bar is required in order to practice law in California. The bar administers programs to enforce rules of professional conduct, examine and admit applicants to the bar, regulate attorney referral services, improve the quality and availability of legal services, and educate the public.

State law requires the State Bar of California to submit its budget to the Legislature for review and approval along with consideration of any bill that authorizes the assessment of fees for bar members. Specifically, the law requires the Joint Legislative Budget Committee to review the bar's budget.

In order to assist the Legislature in its review process, this report analyzes two expenditure plans proposed by the bar in pending legislation. First, we examine the 1989 calendar year budget, or "core" budget, proposed by the bar, including the proposed level of fees for bar members for calendar years 1989 and 1990. The bar advises that the fees proposed in Assembly Bill 4391 (Willie Brown), as introduced, are intended to support its 1989 budget. That bill would impose an additional fee of \$30 in 1989 and \$35 in 1990. Assembly

Bill 4408 (McClintock), as introduced, proposes an unspecified level of fees for 1989.

Second, we have analyzed the specific expenditures proposed by the bar in a supplemental budget for 1988, 1989, 1990, and 1991 which are designed to enhance its discipline program. The bar advises that the projects it proposes specifically for the discipline program are in response to the recommendations of the discipline monitor and are the basis for the fees proposed in Senate Bill 1498 (Presley), as amended March 15, 1988.

Our analysis examines each expenditure plan separately. The first chapter, which describes the expenditures proposed in conjunction with AB 4391, includes expenditures from the bar's General Fund and six special funds. The second chapter, which details the expenditures proposed in support of SB 1498, focuses on the proposed enhancements to the discipline program. The Appendix identifies the combined support of both proposals on the level of bar members' fees from 1989 through 1991.

This report was prepared by Laura Carter under the supervision of Craig Cornett and Cheryl Stewart. Secretarial services were provided by Victoria Albert, and the report was formatted for publication by Suki O'Kane. ♦

Executive Summary

Executive Summary

General Fund — "Core" Budget

Assembly Bill 4391 (Willie Brown) proposes State Bar member fee increases of \$30 in 1989 and \$35 in 1990. The bill is sponsored by the State Bar. These fee increases would be used to support the bar's General Fund programs.

1989 Budget and Fee Increase

1. *1989 "Core" Budget.* Recommend approval of the core budget proposed for 1989 with the following reports to the Legislature:

- A. *Public Education Expenditures.* Recommend that the bar specify to the committees of the Legislature, during hearings on the dues bills, how it intends to spend the funds proposed for the public education program.

- B. *Employee Compensation.* Recommend that the bar present its proposed compensation increase explicitly in the budget, in order to accurately report its spending plan to the Legislature.

2. *1989 Fee Increase.* Recommend approval of \$30 fee increase proposed by the bar for 1989.

1990 Expenditure Plan and Fee Increase

1. *1990 Fee Increase.* Recommend reduction of additional fee assessment proposed for 1990 from \$35 to \$13 to reflect the bar's General Fund expenditure plan for 1990.

General Fund — Discipline Enhancements

Senate Bill 1498 (Presley) authorizes the bar to increase fees by up to \$145 in each year. In support of SB 1498, the bar proposes member fee increases of \$145 in 1989, \$113 in 1990, and \$118 in 1991. These fee increases would be used to augment the Discipline and Adjudication Program within the General Fund.

1. *Discipline Projects Not Recommended by the Discipline Monitor.* Due to lack of information and justification, we are not able to recommend funding for those discipline en-

hancements which go beyond those recommended by the discipline monitor.

2. *Financing for 1988 Projects.* Recommend that the bar report to the Legislature on the impact on member dues of its plan to borrow funds to finance additional projects in 1988. Specifically, the bar should report on the impact of delaying the implementation of these projects on member dues in 1989 and beyond.

3. Technical Budgeting Recommendations.

If the following General Fund budget reductions are approved by the Legislature, the bar's budget proposal would be reduced by \$45,000 in 1988 and \$162,000 in 1989.

Proposed fee increases should be reduced accordingly.

We recommend the following reduction in projects proposed for 1988:

- \$45,000 for printers in the Office of Investigation because the need for printers is overstated.

We recommend the following reductions in projects proposed for 1989:

- \$104,000 for construction of appellate courtrooms because the need for facilities is overstated.
- \$41,000 for adjustments to the 1988 budget because other proposed projects eliminate the need for specified expenses.
- \$9,000 for expansion of the Administrative Compliance Unit because certain furniture expenses are double-counted.
- \$8,000 for recruiting costs because the expenses are unnecessary.

Client Security Fund — Discipline Enhancements

Senate Bill 1498 would increase the annual member fee for the Client Security Fund from \$25 to \$45. This additional assessment would provide that additional funding is on hand to finance claims.

1. *Client Security Fund Fee.* Recommend that the proposed increase in the Client Security Fund fee be deleted because the proposal is premature. ♦

Chapter I

Chapter I

Expenditures in 1989 and 1990

Expenditures in 1989

We recommend approval of the bar's budget for 1989 and the \$30 fee increase proposed for 1989 in AB 4391. We further recommend that the bar report to the Legislature on (1) how it intends to spend the funds it proposes for the public education program and (2) its proposed employee compensation increase, in order to fully report its spending plan to the Legislature.

The bar proposes expenditures of \$57.7 million in 1989 from its General Fund and six special funds. The expenditures in this "core" budget would be supported by the dues proposed for 1989 and 1990 in AB 4391. These expenditures *exclude* projects specifically proposed for the discipline and adjudication program, which would be supported by the fee increase proposed in SB 1498 and are discussed in Chapter 2.

The "core" expenditures proposed for 1989 represent an increase of \$4.9 million, or 9.2 percent, over expenditures budgeted for 1988. Of this increase, \$1.4 million represents program changes proposed for 1989. The balance of \$3.5 million is for price and cost-of-living adjustments.

The bar's budget proposals include the addition of 8.9 full-time equivalent positions. Nearly one-half of these positions (4.0) are proposed for new projects. The remainder (4.9) are proposed to expand existing functions.

Table 1 displays the bar's estimated expenditures for 1988, the proposed expenditures for 1989, and the percentage increase between the two years for its General Fund and special funds.

Table 1
State Bar Expenditures
All Funds
1988 and 1989
(dollars in thousands)

<i>Fund</i>	<i>1988 Estimated Expenditures</i>	<i>1989 Proposed Expenditures</i>	<i>Percent Change from 1988</i>
General ^a	\$25,947	\$28,561	10.1%
Admissions	6,228	6,651	6.8
Building	400	160	-60.0
Client Security	2,604	3,308	27.0
Legal Services Trust	16,201	17,224	6.3
Legal Specialization	437	735	68.2
Sections	1,043	1,101	5.6
Totals	\$52,860	\$57,740	9.2%

^a General Fund expenditures exclude amounts provided through interfund reimbursements.

General Fund Overview

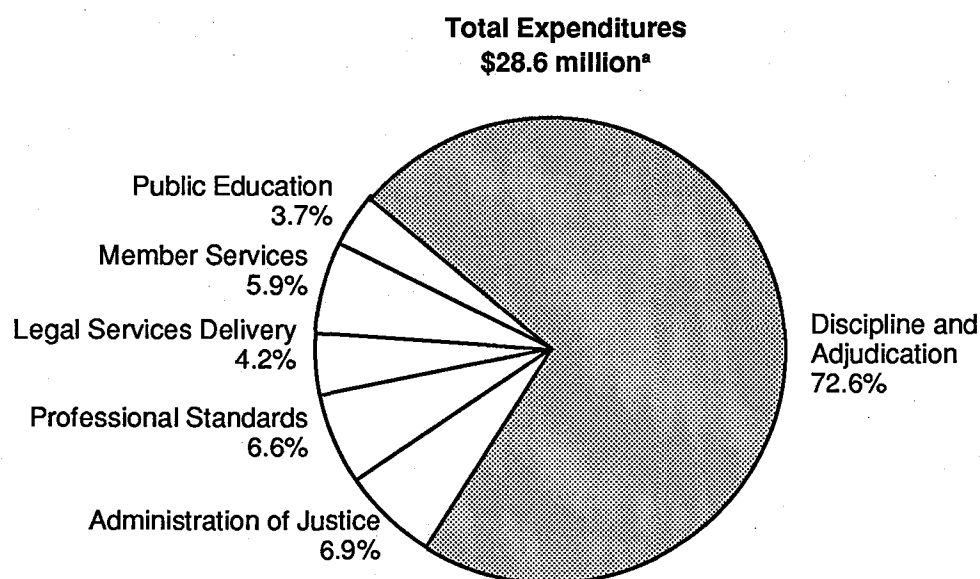
The major components of the bar's proposed 1989 General Fund budget are shown in Chart 1.

The budget proposes expenditures of \$28.6 million from the bar's General Fund in calendar year 1989, exclusive of amounts reim-

Chart 1

State Bar of California: General Fund Programs

1989



^a Includes \$7,077,000 distributed in administration support costs and excludes reimbursements from special funds. Detail may not add to total due to rounding.

bursed to the General Fund by the special funds. This is an increase of \$2.6 million, or approximately 10 percent, above estimated expenditures in 1988.

The General Fund supports seven programs: discipline and adjudication, administration of justice, professional standards,

legal services/delivery, member services, public education, and administration and support. Table 2 provides a summary of the bar's General Fund expenditures, revenues, and staffing levels by program for the past, current, and budget years.

Table 2
State Bar of California
General Fund Budget Summary As Supported by AB 4391
1987 through 1989
(dollars in thousands)

Program	Personnel-Years ^a			Expenditures			Percent Change From 1988
	Actual 1987	Est. 1988	Prop. 1989	Actual 1987	Est. 1988	Prop. 1989	
Discipline and Adjudication ^b	321.9	377.4	381.7	\$16,149	\$19,785	\$21,623	9.3%
Administration of Justice	19.7	22.5	24.2	1,499	1,789	2,035	13.8
Professional Standards	31.7	32.7	33.8	1,383	1,720	1,880	9.3
Legal Services	17.6	18.5	18.8	857	1,069	1,209	13.1
Member Services	38.4	25.3	27.0	3,411	1,612	1,837	14.0
Public Education	17.7	12.8	12.8	1,011	988	1,068	8.1
Administration Support ^c	4.0	4.0	4.0	928	831	1,048	26.1
Distributed Administration Support	(101.1)	(119.5)	(126.7)	(5,746)	(6,033)	(7,077)	17.3
Interfund Reimbursements	-17.1	-18.0	-18.0	-1,535	-1,847	-2,139	15.9
Totals	433.9	475.2	484.3	\$23,703	\$25,947	\$28,561	10.1%
Funding Sources							
Membership Fees				\$20,916	\$23,238	\$26,828	15.5%
Law Corporation Fees				450	414	385	-7.0
Interest Revenue				653	680	714	5.0
Advertising Revenue				815	—	—	—
Sales of Pamphlets and Ethics Opinions				83	74	102	37.8
Practical Training Fees				32	46	46	—
Convention Income				297	303	326	7.6
Miscellaneous Revenue				150	153	161	5.2
Prior Year Balance Available				1,347	1,039	—	-100.0
Unexpended Balance				-1,039	—	—	—

^a The 1987 figures represent the bar's estimate of full-time positions filled during that year.

^b Exclusive of enhancements discussed in Chapter 2.

^c Administration support program costs and personnel-years are allocated to other General Fund programs.

The bar expects to support its increased expenditures in 1989 from an increase in member fees, which will generate approximately \$3 million in increased revenue. This increase in revenue is based on the \$30 fee augmentation proposed in AB 4391. During

1989, the bar projects it will have 100,197 active members and 10,763 inactive members. In addition, the bar expects to receive interest revenue of \$714,000 and other revenue of \$1 million in 1989. Table 3 displays the impact on bar members of the fees proposed in AB 4391.

Table 3
State Bar of California
Member Fees Proposed by AB 4391^a
1988 through 1990

Membership Category	1988	1989		1990	
		Proposed Increase	Total	Proposed Increase	Total
Less than 1 year	\$176	\$30	\$206	\$35	\$241
1 to 3 years	207	30	237	35	272
Over 3 years	275	30	305	35	340
Inactive	50	—	50	—	50

^a Includes existing \$25 discipline fee, \$25 Client Security Fund fee, and \$10 Building Fund fee. (Inactive members pay only a \$40 general fee and the \$10 Building Fund fee.)

General Fund Analysis and Recommendations

The bar proposes an increase in its General Fund expenditures of \$2.6 million in 1989. Of this increase, \$1.2 million represents price and workload adjustments. The remaining \$1.4 million represents new projects proposed by the bar. Although most of the proposed projects (\$1.1 million) augment the administration support program, the costs are allocated to the various programs within the General Fund. The major new projects include:

- **Renovation of San Francisco facilities (\$372,000).** Consists of nine projects, such as replacing carpeting and refurbishing the lobby.
- **Word processing (\$255,000).** Includes replacing typewriters with personal computers and training supervisors in their use.
- **Expansion of telephone capacity (\$135,000).** Replaces existing long-distance telephone system between San Francisco and Los Angeles offices to provide greater capacity.
- **Operational audit (\$100,000).** Establishes an ongoing operational audit capability within the bar, beginning with one position.
- **Centralized management information system (\$51,000).** Expands financial planning function to include collection and dissemination of management information data.

In the discussion that follows, we examine each of the programs within the General Fund.

Discipline and Adjudication. The bar proposes expenditures of \$21.6 million for discipline and adjudication activities in 1989, excluding the enhancements proposed in support of SB 1498. This is an increase of \$1.8 million, or 9.3 percent, over the amount budgeted for 1988. The bar undertakes these activities to regulate the conduct of lawyers.

The discipline and adjudication program contains five elements: investigation, trial counsel, Client Security Fund administration, State Bar Court, and direct overhead administration. No program adjustments are proposed in the 1989 budget supported by AB 4391 for this program. Changes proposed for the discipline program are contained in the budget supported by SB 1498. We discuss that budget in Chapter 2.

Administration of Justice. The bar proposes expenditures of \$2 million for the administration of justice program in 1989. This is an increase of \$246,000, or 14 percent, over estimated expenditures in 1988. Within this program, the bar monitors and advocates positions on legislation, considers court reform efforts, and evaluates judicial candidates. In addition, the Conference of Delegates coordinates the work of local bar associations and the State Bar.

Professional Standards. The bar proposes expenditures of \$1.9 million for the professional standards program in 1989. This is \$160,000, or 9.3 percent, greater than estimated expenditures in 1988. Among the activities included in this program, the bar disseminates standards of conduct and professional responsibility among members and assists them in adhering to the standards.

Legal Services Delivery. The bar proposes expenditures of \$1.2 million for the legal services delivery program in 1989. This is \$140,000, or 13 percent, greater than estimated expenditures for 1988. Within this program, the bar provides assistance in the delivery of civil and criminal legal services to the public. Specifically, the bar's activities include assisting lawyer referral services and voluntary legal services.

Member Services. The bar proposes expenditures of \$1.8 million for the member services program in 1989. This is \$225,000, or 14 percent, greater than estimated expenditures in

1988. This program includes activities to support local minority and specialty lawyer organizations, coordinate meetings, and produce publications.

Public Education. *We recommend that the bar report to the committees of the Legislature, during hearings on the dues bills, and clarify how it intends to spend the funds proposed for the public education program.*

The bar proposes expenditures of \$1.1 million for the public education program. This is \$80,000, or 8.1 percent, greater than estimated expenditures in 1988. This program includes activities to promote public awareness and understanding of the law and the legal profession and to provide information to the news media.

In its budget presentation, the bar has grouped the proposed \$1.1 million in public education program expenditures into one element, public education administration, rather than allocating proposed expenditures into functions, such as community relations, media relations, and editorial services. This presentation fails to provide the Legislature with information on what public education activities the bar intends to undertake in 1989.

In order to assist the Legislature in reviewing the proposed expenditures for this program, we recommend that the bar report to the committees of the Legislature, during hearings on the dues bill, on how it intends to spend the funds proposed for the public education program. The proposed expenditures are only 5.6 percent above what they were two years ago and 8.1 percent above the current-year level. Because we believe this to be an important activity for the bar to undertake to meet its statutory obligations, we have not recommended any program reductions or corresponding fee reduction. We do not believe, however, that the proposed expenditure plan provides the Legislature with sufficient information on the nature and scope of the education program. The bar should clarify its intent during legislative hearings.

Administration Support. The bar proposes expenditures of \$8.1 million for administration support functions in 1989. This is \$1.3 million, or 18 percent, greater than estimated expenditures in 1988. Of this total increase, \$1.1 million results from proposed new projects. This program provides staff and operational support to other General Fund programs and special fund activities. In 1989, the bar plans to distribute \$7.1 million in administrative costs to other General Fund programs. In addition, special funds will provide \$1 million of reimbursements for this program.

Funds for Employee Compensation Increases Should be Explicitly Displayed

We recommend that the bar present its proposed compensation increase for employees whose compensation is derived through collective bargaining explicitly in the budget, in order to accurately report its spending plan to the Legislature.

Current contracts with the bar's unionized employees expire on June 30, 1989. The bar advises that approximately 500 of its employees belong to two bargaining units with which the bar negotiates or which receive compensation that is based on the agreements reached between the bar and the units. In the 1989 budget, the bar has not specifically identified the amount it plans to allocate for employees whose compensation is determined through collective bargaining negotiations.

Although the increased compensation for these employees is not specified, the bar has earmarked a pool of funding for this purpose within the operating expenses and equipment budget. Because the pool of funding is not distinguished from other expenses, however, both the employee compensation and the operating expenses and equipment budget are distorted. Consequently, the Legislature cannot accurately assess the increase in employee compensation or the operating expenses and equipment expenditures which are affected.

We recommend that the bar present its proposed increase in compensation for em-

ployees whose compensation is derived through collective bargaining explicitly in its

budget, in order to accurately report its spending plan to the Legislature.

Special Funds Analysis

The bar maintains six special funds which support specific activities. These funds are intended to be self-supporting. In this section, we examine each of the special funds. Our analysis includes tables which show the special funds' expenditures and staffing levels for 1987, 1988, and 1989. We have limited our review to 1987 through 1989, because the bar has not provided detail about the expenditures for any of the special funds in subsequent years.

Our analysis indicates that the expenditures proposed for the special funds in 1989 are reasonable.

Admissions Fund. The bar proposes expenditures of \$6.7 million from the Admissions Fund in 1989. The bar expects to support these expenditures primarily from application fee revenue, which it assumes will total \$5.8 million. The admissions program, which is financed from this fund, administers bar admissions exams and accredits law schools. Table 4 shows the expenditures, revenues, unexpended balances, and staffing levels of the Admissions Fund for 1987 through 1989.

Table 4
Admissions Fund
1987 through 1989
(dollars in thousands)

	Actual 1987	Estimated 1988	Proposed 1989	Percent Change From 1988
Beginning balance	\$341	\$38	\$249	555.0%
Revenue	5,311	6,439	6,439	—
Expenditures	5,614	6,228	6,651	6.8
Ending balance	38	249	37	-85.1
Personnel-years	57.6	67.3	69.6	3.4

The proposed expenditures of the Admissions Fund in 1989 represent an increase of \$423,000, or 6.8 percent, over estimated 1988 expenditures. This increase includes expenditures of \$55,000 for new projects.

Building Fund. The bar proposes an expenditure of \$160,000 from the Building Fund in 1989 for purchase of property in Los Angeles in anticipation of construction of a new facility at an unspecified date in the future. This ex-

penditure is supported by revenues generated from a \$10 annual fee charged to all members. Pursuant to current law, the bar's use of the annual fee is limited to financing and constructing a facility in Los Angeles and major capital improvement projects related to bar-owned facilities. Table 5 shows the expenditures and funding sources of the Building Fund for 1987 through 1989. No bar personnel are allocated to the Building Fund.

Table 5
Building Fund
1987 through 1989
(dollars in thousands)

	<i>Actual 1987</i>	<i>Estimated 1988</i>	<i>Proposed 1989</i>	<i>Percent Change From 1988</i>
Beginning balance	-\$78	\$537	\$1,243	131.0%
Revenue	1,082	1,106	1,178	6.5
Expenditures	467	400	160	-60.0
Ending balance	537	1,243	2,261	81.9

The bar's proposed expenditures for the Building Fund represent a decrease of \$240,000, or 60 percent, below estimated 1988 expenditures. This decrease results from a one-time expenditure in 1988 for repair to a bar facility in Los Angeles which was damaged by the October 1987 earthquake.

It should be noted that the balance in this fund has substantially grown in just two years. Existing law requires the bar to submit to the Legislature its preliminary plan and cost estimate for the proposed Los Angeles facility. The bar has not submitted any plans for the facility, and no construction expenditures are proposed in 1989. Consequently, the

balance in this fund will continue to grow until the bar finalizes a plan for the facility.

Client Security Fund. The bar proposes expenditures of \$3.3 million from the Client Security Fund in 1989. These expenditures are supported by revenues generated from a \$25 annual fee charged to all active members. The fund provides monetary compensation of up to \$50,000 to clients who have lost money or property due to the dishonest conduct of their attorneys. Table 6 shows the expenditures, revenues, unexpended balances, and staffing levels of the Client Security Fund for 1987 through 1989.

Table 6
Client Security Fund
1987 through 1989
(dollars in thousands)

	<i>Actual 1987</i>	<i>Estimated 1988</i>	<i>Proposed 1989</i>	<i>Percent Change From 1988</i>
Beginning balance	\$457	\$949	\$882	-7.1%
Revenue	2,472	2,537	2,664	5.0
Expenditures	1,980	2,604	3,308	27.0
Ending balance	949	882	238	-73.0
Personnel-years	8.1	9.0	9.0	—

The bar's proposed expenditures from the Client Security Fund in 1989 represent an increase of \$704,000, or 27 percent, over estimated 1988 expenditures. This increase results from two factors. First, the bar projects that an additional \$1.1 million will be paid in claims to clients. This amount represents 22

additional claims at the \$50,000 maximum payment. Second, the bar has adjusted the interfund reimbursement formula by which the special funds reimburse the General Fund. This adjustment results in an additional \$196,000 assessment to the Client Security Fund.

Legal Services Trust Fund. The bar proposes expenditures of \$17.2 million from the Legal Services Trust Fund. These expenditures include \$16.6 million in grants to nonprofit organizations which primarily assist indigent persons with their legal problems. Expenditures from this fund are supported by interest

paid by specified client deposits held by lawyers and remitted to the fund. In 1989, the bar expects to collect \$17.7 million in client trust account revenue from lawyers. Table 7 shows the expenditures, revenues, unexpended balances, and staffing levels of the Legal Services Trust Fund for 1987 through 1989.

Table 7
Legal Services Trust Fund
1987 through 1989
(dollars in thousands)

	<i>Actual 1987</i>	<i>Estimated 1988</i>	<i>Proposed 1989</i>	<i>Percent Change From 1988</i>
Beginning balance	\$5,239	\$7,610	\$8,234	8.2%
Revenue	15,646	16,825	17,665	5.0
Expenditures	13,275	16,201	17,224	6.3
Ending balance	7,610	8,234	8,675	5.4
<i>Personnel-years</i>	8.5	8.5	8.5	—

The bar's proposed expenditures from the Legal Services Trust Fund represent an increase of \$1 million, or 6.3 percent, over estimated 1988 expenditures. This increase results from the projected disbursement of an additional \$1 million in grants in 1989.

Legal Specialization Fund. The bar proposes expenditures of \$735,000 from the Legal Specialization Fund in 1989. This fund administers the bar's program for certifying lawyers as specialists in particular fields of law. Expenditures from the fund are sup-

ported by \$845,000 in revenues, which primarily result from fees paid by lawyers to take the certifying exams. In 1989, the bar will add four new speciality areas to the five areas for which lawyers may currently be certified. The bar anticipates that revenues to this fund will more than double with the addition of the four specialty areas. Table 8 shows the expenditures, revenues, unexpended balances, and staffing levels of the Legal Specialization Fund for 1987 through 1989.

Table 8
Legal Specialization Fund
1987 through 1989
(dollars in thousands)

	<i>Actual 1987</i>	<i>Estimated 1988</i>	<i>Proposed 1989</i>	<i>Percent Change From 1988</i>
Beginning balance	\$111	\$91	\$56	-38.5%
Revenue	423	402	845	110.2
Expenditures	443	437	735	68.2
Ending balance	91	56	166	196.4
<i>Personnel-years</i>	6.1	7.5	10.0	33.3

The bar's proposed expenditures from the Legal Specialization Fund are \$298,000, or 68 percent, greater than estimated 1988 expenditures. The increase results primarily from a public awareness project being conducted by the bar (\$134,000) and the addition of 2.5 staff positions (\$54,000).

Sections Fund. The bar proposes expenditures of \$1.1 million in 1989 from the Sections Fund. This fund supports 15 sections, each of

which undertakes activities concerning a particular area of law, such as trust and probate law and real property law. Expenditures from this fund are supported by voluntary dues from the approximately 30,000 bar members who belong to the sections. Table 9 shows the expenditures, revenues, and unexpended balance of the Sections Fund for 1987 through 1989. No bar personnel are allocated to the Sections Fund.

Table 9
Sections Fund
1987 through 1989
(dollars in thousands)

	<i>Actual 1987</i>	<i>Estimated 1988</i>	<i>Proposed 1989</i>	<i>Percent Change From 1988</i>
Beginning balance	\$147	\$99	\$123	24.2%
Revenue	996	1,067	1,094	2.5
Expenditures	1,044	1,043	1,101	5.6
Ending balance	99	123	116	-5.7

The proposed expenditures from the Sections Fund represent an increase of \$58,000, or 5.6 percent, over estimated expenditures for 1988. A portion of this increase results from

additional interfund charges assessed to the Sections Fund and reimbursed to the General Fund.

Expenditures in 1990

Information submitted by the bar relating to 1990 General Fund expenditures contains no budget detail. In response to our questions, the bar stated that it would continue the program changes in 1990 that it proposes for 1989. The bar has not presented any new program initiatives for 1990. The bar indicates that a \$35 increase in member fees, as proposed in AB 4391, is necessary to support its 1990 expenditures.

Budget for 1990 Requires Lower Fee Than Proposed in AB 4391

We recommend that the bar reduce the additional fee assessment proposed for 1990 from \$35 to \$13 to reflect its actual need for additional General Fund revenue.

Although the bar has not provided any data to support its 1990 budget, based upon our discussions with the bar, we estimate that its General Fund expenditures in 1990 will be \$29.9 million. This is an increase of \$1.3 million, or 4.6 percent, over proposed 1989 General Fund expenditures. This estimate takes into account adjustments for one-time costs included in 1989, the full-year effect of projects initially phased in during 1989, and the bar's assumptions about inflation and employee compensation increases in 1990.

The bar has also failed to provide revenue projections for 1990. Nevertheless, the bar proposes the fee augmentation of \$35 for 1990 that is included in AB 4391. At that amount,

the bar would raise an additional \$3.6 million from the 103,697 active members it expects to have in 1990.

Our analysis indicates that a full increase in member dues of \$35 is not justified. At that level of increase, the bar could support General Fund expenditures of \$32.2 million. Based upon information submitted by the bar, these expenditures are not warranted. In order to fund the activities it proposes for 1990, the bar requires an *increase in dues of only \$13 per member*.

Accordingly, we recommend that the bar reduce the additional fee it proposes for 1990 from \$35 to \$13. At this lower amount, the bar can adequately fund its anticipated 1990 activities. Specifically, we recommend that AB 4391 be amended as follows:

on page 2, replace lines 29 to 40 with the following:

(b) The board shall fix the annual membership fee for 1990 as follows:

(1) For active members who have been admitted to the practice of law in this state for three years or longer preceding the first day of February of the year for which the fee is payable, at the sum of two hundred fifty-eight dollars (\$258).

(2) For active members who have been admitted to the practice of law in this state for less than three years but more than one year preceding the first day of February for which the fee is payable, at the sum of one hundred ninety dollars (\$190).

on page 3, replace lines 1 to 5 with the following:

(3) For active members who have been admitted to the practice of law in this state during, or for less than one year preceding the first day of February of, the year for which the fee is payable, at a sum not exceeding one hundred fifty-nine dollars (\$159). ♦

Chapter II

Chapter II

Discipline Enhancements

In addition to the increases in "core" dues proposed in AB 4391, SB 1498 (Presley) provides for dues increases to specifically enhance the bar's discipline and adjudication program. Senate Bill 1498, as amended March 15, 1988, authorizes the bar to raise member dues by up to \$145 each year for 1989, 1990, and 1991. The bill requires the bar to refund to

its members any amount of these general membership dues that are collected but not expended. In addition, SB 1498 increases the existing Client Security Fund fee from \$25 to \$45 and imposes a fee of \$1.90 to support the bar's discipline monitor.

Table 10 displays the impact on members of the fees authorized in SB 1498.

Table 10
State Bar of California
Member Fees Authorized by SB 1498
1988 through 1991

<i>Membership Category</i>	<i>1988^a</i>	<i>Proposed Increase</i>	<i>1989^b Total Fee</i>	<i>1990^b Total Fee</i>	<i>1991^b Total Fee</i>
Less than 1 year	\$176	\$167	\$343	\$343	\$343
1 to 3 years	207	167	374	374	374
Over 3 years	275	167	442	442	442
Inactive ^c	50	—	50	50	50

^a For active members, 1988 fees include \$25 discipline fee, \$25 Client Security Fund fee, and \$10 Building Fund fee.

^b For active members, fees in 1989 through 1991 include \$25 discipline fee, \$45 Client Security Fund fee, \$10 Building Fund fee, and \$1.90 discipline monitor fee.

^c For inactive members, fees include \$40 general fee and \$10 Building Fund fee from 1988 through 1991.

Through the discipline program, the bar regulates the conduct of its members. Most program costs are financed from the bar's General Fund. The discipline program includes the following activities:

- Investigation of complaints of lawyer misconduct,
- Filing and prosecution of formal disciplinary charges against lawyers, and

- Adjudication of formal disciplinary matters through the State Bar Court, resulting in sanctions against lawyers or the recommendation of suspension or disbarment to the California Supreme Court.

The bar proposes a variety of one-time and ongoing program changes through 1991 to restructure and enhance its attorney disci-

pline and adjudication program. When fully implemented, these changes would result in additional annual costs of approximately \$9.2 million. This is an increase of 63 percent over estimated 1988 General Fund expenditures for the discipline program.

The bar plans to begin implementing changes to the discipline program in 1988. Specifically, the bar proposes to initiate proj-

ects in the Office of Investigation and the Office of Trial Counsel during 1988. The costs incurred during the current year would be paid through the increases in member dues in 1989, 1990, and 1991.

Table 11 shows the proposed additional expenditures for the various offices within the discipline and adjudication program for 1988 through 1991.

Table 11
State Bar of California
Proposed Discipline Enhancements, By Unit
1988 through 1991
(dollars in thousands)

Office	1988	1989	1990	1991
Office of Investigation	\$2,266	\$1,960	\$1,833	\$1,918
Office of Trial Counsel	3,352	3,297	2,956	3,094
Complainants Grievance Panel	—	176	142	151
Office of State Bar Court	512	9,035	6,383	6,672
Totals	\$6,130	\$14,468	\$11,314	\$11,835

Discipline Enhancement Analysis and Recommendations

The bar proposes a variety of changes to the discipline system, which are incorporated in SB 1498. In this section, we examine the changes proposed by the bar which would have the most significant impact on expenditures, and consequently, on member dues. Following our examination of the significant changes, we examine issues and make recommendations that the Legislature may wish to consider as it evaluates the bar's proposals.

Discipline Monitor

The projects proposed by the bar to enhance its discipline and adjudication program were developed in response to the discipline monitor's evaluation of the State Bar's discipline system and procedures. The discipline monitor position was created by Ch 1114/86 (SB 1543, Presley). Appointed by the Attorney General, the discipline monitor has produced three reports which examine the bar's discipline program and suggest improvements to it. According to bar staff, the discipline enhancements outlined in SB 1498 will imple-

It should be noted that, although the bar submitted adequate data to facilitate our review of its 1989 "core" budget (described in Chapter 1), that same level of detail was not provided for the discipline enhancements projects submitted to the Legislature in mid-March. The complexity of this request, in combination with the limited time for review and lack of information, has made it difficult to provide the same level of analysis of the discipline enhancement projects.

ment most of the recommendations contained in the three reports.

Table 12 compares the discipline monitor's recommendations and the bar's budget proposals. The table also shows the bar's estimate of the annual cost of its proposals when fully implemented, as well as the one-time costs associated with specific proposals. As the table indicates, the bar's budget proposals provide for more extensive program changes than the discipline monitor has specifically recommended.

Table 12

Comparison of Discipline Monitor's Major Recommendations and State Bar's Budget Proposals

DISCIPLINE MONITOR RECOMMENDATION	STATE BAR BUDGET PROPOSAL	PROPOSED COST
Office of Investigations Add 2 positions to receive and monitor complaints with associated increase in telephone capacity Create Special Operations Unit with 15 investigators	Same 16 investigators and 5 secretaries Add 3 data entry, clerical, and receptionist positions Acquire computers and printers for all investigators and staff	\$131,000 ^a 996,000 ^a 273,000 ^b 112,000 ^a 499,000 ^b
Office of Trial Counsel Create Special Operations Unit with 12 attorneys Hire 5 legal assistants Hire additional secretaries Consolidate Los Angeles-based attorneys and investigators in one location (approximately 80 positions and associated support staff)	11 attorneys and 7 secretaries 5 paralegals 6 secretaries, to achieve ratio of 1 secretary to 2 attorneys Consolidate all Los Angeles staff in one location (267 positions) Add 3 clerical and receptionist positions; upgrade 3 data entry positions Create Trial Counsel Administrator position Augment 1988 budget for travel, computer support, abandoned case expense Acquire computers and printers for new positions	1,282,000 ^a 470,000 ^b 207,000 ^a 192,000 ^a 405,000 ^a 2,562,000 ^b 77,000 ^a 65,000 ^a 72,000 ^a 248,000 ^b
Complainants Grievance Panel	Add 3 staff positions	151,000 ^a 32,000 ^b
State Bar Court - Fee Arbitration	Add 2 staff positions; referee training; local bar workshops	93,000 ^a 9,000 ^b
State Bar Court - Hearing Unit Replace volunteer referees with 6-10 full-time judges	11 full-time judges; 14 support staff; leased space; construction of 11 courtrooms	2,468,000 ^a 1,794,000 ^b
State Bar Court - Appellate Unit Replace 18-member Review Department with full-time unit	3 full-time judges; 8 support staff; leased space; construction of 3 courtrooms	898,000 ^a 480,000 ^b
State Bar Court Clerk	Add 10 staff positions	525,000 ^a 303,000 ^b
Recorders/Transcribers	Create 4 positions	157,000 ^a 70,000 ^b
Discipline Reporter Publish <i>Discipline Reporter</i>	Publish <i>Discipline Reporter</i> in 3 parts; 4 staff positions	190,000 ^a
State Bar Court — Miscellaneous	Augment 1988 budget for meeting expenses and overtime	171,000 ^a
Administration Support	Miscellaneous projects	849,000 ^a 1,032,000 ^b
Total Cost of Specified Proposals		\$9,041,000^a 7,772,000^b
^a Annual cost. ^b One-time cost.		

Bar Construes "Discipline Enhancements" Broadly

Due to lack of information and justification, we are not able to recommend funding for those discipline enhancements which go beyond those recommended by the discipline monitor in his three reports to the Legislature and the Supreme Court. We have identified \$2.1 million in annual costs and \$6.1 million in one-time costs as amounts which exceed the funds necessary to implement the monitor's recommendations. We recommend that proposed fee increases be reduced to reflect the Legislature's actions concerning these projects.

The discipline monitor's recommendations address the problems concerning the discipline system that the Legislature has perceived. However, in many instances, the bar's proposed discipline enhancement projects extend beyond the monitor's recommendations and would, instead, more generally augment the operations of the discipline system.

In Table 13, we have identified those proposals of the bar which generally exceed the specific recommendations of the monitor.

Table 13

**State Bar of California
Discipline Enhancements Which Exceed Discipline Monitor's Recommendations**

OFFICE	STATE BAR PROPOSAL	AMOUNT IN EXCESS OF MONITOR
Investigation	3 positions	\$112,000 ^a
Trial Counsel	Consolidation of all Los Angeles staff in one location (267 positions)	405,000 ^a 2,562,000 ^b
	6 nonprofessional positions	77,000 ^a
	Trial Counsel Administrator position	65,000 ^a
	Augment 1988 budget for expenses	72,000 ^a
Complainants Grievance Panel	3 staff positions	151,000 ^a 32,000 ^b
State Bar Court Fee Arbitration	2 staff positions; referee training; local bar workshops	93,000 ^a 9,000 ^b
State Bar Court Hearing Unit	Construction of 11 courtrooms	1,760,000 ^b
State Bar Court Appellate Unit	Construction of 3 courtrooms	320,000 ^b
State Bar Court Clerk	Add 10 staff positions	525,000 ^a 303,000 ^b
State Bar Court Recorders/Transcribers	4 new positions	157,000 ^a 70,000 ^b
State Bar Court Miscellaneous	Augment 1988 budget for meeting expenses and overtime	171,000 ^a
Administration Support	Miscellaneous projects	250,000 ^a 1,000,000 ^b
Total Cost of Excessive Enhancements		\$2,078,000^a 6,056,000^b
^a Annual cost. ^b One-time cost.		

Hearing Unit. Most significantly, the bar's proposal to create a Hearing Unit in the State Bar Court is more extensive than the monitor has recommended. The bar proposes that 11 judges be appointed to the Hearing Unit, that a separate courtroom be provided for each of these judges, and that 10 positions be added to the staff of the State Bar Court Clerk's Office. Each of these proposals is based on the bar's projection of the workload of the Hearing Unit.

We are concerned about the bar's proposal for several reasons:

- **Projected workload may represent one-time increase from backlog reduction.** The bar projects the workload for the State Bar Court in 1989 and beyond on the basis of 1988 cases. We question whether this level of cases would be maintained in succeeding years, or represents the one-time impact of cases resulting from reduction of the bar's backlog.
- **Output of judges and length of hearings are unknown.** The bar also bases its proposals for judges, support staff, and facilities on an estimate of the annual number of working hours which each judge could contribute. However, the bar does not provide an estimate of the average number of hours necessary for each hearing.
- **Need for individual courtrooms not justified on a workload basis.** The bar asserts that an individual courtroom is necessary for each judge in order to avoid delays in hearing discipline matters. We lack the necessary workload data to determine whether each courtroom would be fully used.
- **Effect of workload on need for additional Court Clerk staff is not clear.** The lack of workload data for the Hearing Unit makes it difficult to evaluate the bar's proposal to expand the operations of the Court Clerk's Office to San Francisco and to add 10 positions to the office's staff.

For example, if the caseload in 1988 were abnormally high, the bar should consider creating limited-term positions, rather than adding permanent staff.

Facilities. The bar's proposals to expand its current facilities and to relocate existing staff also extend beyond the monitor's recommendations. Many of the bar's discipline enhancement projects call for expanding the bar's current facilities or relocating existing staff in Los Angeles and San Francisco. Specifically, the bar intends to relocate and consolidate all discipline staff in Los Angeles into one facility and to expand into new facilities to house additional staff in San Francisco. The cost of the facility projects proposed for 1988 and 1989 represents nearly \$90 in fees for each member.

Again, we have significant concerns about the bar's proposals:

- **Facility proposals are unclear.** In general, the bar does not explain where new positions will be placed or where the staff in Los Angeles and San Francisco will be relocated. For example, the bar proposes to acquire additional space and relocate staff in San Francisco. The bar has not provided the Legislature with a clear understanding of the details of its proposals.
- **Proposed facility expenditures are based on assumptions.** The bar indicates that lease negotiations for these facility proposals have not been completed. Lacking completed leases, the bar bases its budget and member dues on various assumptions about the rents it will pay for new facilities and for improvements to these facilities.

Examples of other projects in which the bar's proposals are more extensive than the monitor's recommendations include additional administrative support positions (\$250,000), augmentations to the 1988 budgets of the Office of Trial Counsel (\$72,000) and the State Bar Court (\$171,000).

These projects are clearly related to the bar's discipline function. Nevertheless, it is not clear that they are necessary to enhance the discipline system as the discipline monitor has recommended. Consequently, we are unable to recommend approval of those projects proposed by the bar which are not directly

tied to the monitor's recommendations. In its review of the bar's discipline enhancements, the Legislature may wish to examine alternatives to the bar's proposals. For example, the Legislature may wish to phase-in projects and provide for a gradual fee increase.

Office of Investigation

The bar proposes several one-time and ongoing program changes through 1991 for the Office of Investigation. When these changes are fully implemented, they will result in additional annual costs of \$1.5 million. This is an increase of 30 percent over the estimated General Fund expenditures for this office in 1988.

This office evaluates and investigates allegations of unethical and unprofessional conduct against attorneys. An investigation and evaluation of each allegation results in a recommendation to the Office of Trial Counsel to either close an investigation or to issue a Notice to Show Cause.

The bar proposes 12 projects for the Office of Investigation. The major projects include the following:

Special Operations Unit. The bar proposes to create a Special Operations Unit within the Office of Investigation. This unit will be phased in during 1988 and 1989, and will consist of 15 investigators, one investigative assistant, and five secretaries. The bar plans to merge the unit with the Trial Counsel Special Prosecution Unit in 1989. When fully implemented, this project would add \$996,000 to the bar's annual General Fund expenditures.

The bar proposes that the Investigation Special Operations Unit initially be assigned to reduce the discipline system's "backlog." The backlog is defined as being those cases in which more than six months have elapsed from the time a complaint against an attorney is received and action is taken to dismiss the case, admonish the attorney, or file a Notice to

Show Cause. Senate Bill 1498 extends the time period for certain cases to 12 months. As of December 31, 1987, 1,964 cases were considered part of the "backlog."

When the backlog is reduced, the bar proposes that this unit would provide pretrial investigation services to the Office of Trial Counsel for complex cases, such as cases in which an attorney is causing imminent harm to the public or when multiple clients are involved. The bar reports that approximately 20 percent of discipline matters are complex cases. The bar proposes that the Special Operations Unit and the Office of Trial Counsel employ a vertical approach to address complex cases. This approach calls for the two divisions to work together on complex cases immediately, rather than allowing investigators to prepare a Notice to Show Cause before involving the Office of Trial Counsel.

Allocated Staff and Expenses. In addition to the discipline enhancement projects, the bar also proposes a number of projects to provide more administrative support to the discipline program. The costs of these administrative support projects are allocated to the offices within the program. The administrative support costs which are allocated include furniture, construction, computer equipment, and lease payments associated with 18 support positions. These expenses are allocated based on the office's share of the total proposed discipline enhancement expenditures. In 1988, the bar proposes to allocate \$893,000 in administrative costs to the Office of Investigation.

Computer Equipment. The bar proposes expenditures of \$499,000 in 1988 for the purchase of personal computers, computer termi-

nals, and printers for investigators and support staff. This purchase would include 85 computers and 85 printers.

Office of Trial Counsel

The bar proposes several one-time and ongoing program changes for the Office of Trial Counsel through 1991 which, when fully implemented, would result in additional annual General Fund expenditures of \$2.4 million. This is an increase of 40 percent over estimated General Fund expenditures for this office in 1988.

The Office of Trial Counsel prosecutes attorneys in formal hearings for violations of the State Bar Act or Rules of Professional Conduct. Specific activities include evaluating investigations, preparing formal pleadings, conducting discovery, and representing the bar in hearing and review proceedings.

The bar proposes 12 projects for the Office of Trial Counsel. The major projects include:

Special Prosecution Unit. The bar proposes to create a Special Prosecution Unit within the Office of Trial Counsel. When fully implemented, the unit would cost \$1.3 million annually, and would consist of 11 attorneys and seven secretaries. The bar plans to merge this unit with the Investigation Special Operations Unit in 1989.

As in the case of the Investigation Special Operations Unit, the bar intends for the Trial Counsel unit to initially address the backlog of discipline matters. Specifically, the unit would focus its efforts on pending Notices to Show Cause. The bar reports that the investigation phase has been completed on approximately 600 notices, and those cases await action by the Office of Trial Counsel.

Following the reduction of the backlog, the bar proposes that this unit would work with

the Investigation Special Operations Unit on complex cases. This plan calls for the Trial Counsel unit to assume the intake function within the discipline system and to become involved in complex cases immediately.

Allocated Staff and Expenses. The bar proposes to allocate a portion of the additional administrative support expenses to the Office of Trial Counsel. These expenses include furniture, construction, computer equipment, and lease payments associated with 18 support positions. In 1988, approximately \$1 million in administrative costs would be allocated to this office.

Paralegal Support. The bar proposes to create five paralegal positions. Two of these positions would be filled in mid-1988, and three would be filled in 1989. By 1991, these positions would cost \$207,000 annually. These positions would supplement the nine paralegal positions currently in the Office of Trial Counsel.

According to the bar, these paralegals would support attorneys in the Office of Trial Counsel. Their duties would include performing basic legal tasks for the attorneys, such as preparing pleadings and coordinating exhibits for cases.

Secretarial Expansion. The bar proposes to add six secretarial positions to the staff of the Office of Trial Counsel at an annual cost of \$192,000 by 1991. Currently, the Office of Trial Counsel includes 20 legal secretaries. The addition of the proposed positions would allow the office to reach the bar's desired ratio of one secretary to every two attorneys.

Complainants Grievance Panel

The bar proposes several one-time and ongoing program changes through 1991 for the Complainants Grievance Panel which, when fully implemented, would result in additional annual costs of \$151,000. The panel was established in 1987 to review dismissals of complaints against or admonitions of attorneys at the request of the complainants and to periodically audit dismissals and admonitions.

Staff Expansion and Office Furniture. In 1989 the bar proposes to add the following

three positions to the Administrative Compliance Unit, the staff to the Complainants Grievance Panel: one attorney, one paralegal, and one legal secretary. These positions would supplement the existing six-member staff.

According to the bar, the number of requests for further investigation has increased by 400 percent since the panel was created. The bar contends that additional staff members are necessary in order to maintain the staff's caseload at manageable levels.

Office of State Bar Court

The greatest enhancements in the bar's discipline program are proposed for the Office of the State Bar Court. The bar proposes a variety of one-time and ongoing program changes to restructure the court. When fully implemented, the changes would result in additional annual costs of \$5 million, excluding the 1988 financing costs shown in Table 14. This is an increase of 195 percent over 1988 estimated General Fund expenditures for the court.

The State Bar Court serves as the forum for adjudicating formal disciplinary matters brought against attorneys. The court resolves cases before it by imposing disciplinary meas-

ures on the attorney, suspending or disbarring the attorney, or recommending discipline action to the California Supreme Court. In addition, the State Bar Court administers the Attorney-Client Fee Arbitration Program.

The projects proposed to restructure the operations of the State Bar Court affect six divisions: the Fee Arbitration Program, the Hearing Unit, the Appellate Unit, the Court Clerk, the Recorders/Transcribers, and the *Discipline Reporter*. Table 14 lists the estimated annual cost for each of the five areas from 1988 through 1991, including expenditures and personnel-years.

Table 14
State Bar of California
Office of State Bar Court
Proposed Discipline Enhancements
1988 through 1991
(dollars in thousands)

Division	Expenditures ^a				Personnel-Years			
	1988	1989	1990	1991	1988	1989	1990	1991
Fee Arbitration	\$23	\$90	\$87	\$93	—	2.0	2.0	2.0
Hearing Unit	132	3,704	2,552	2,705	—	29.0	29.0	29.0
Appellate Unit	—	779	934	990	—	12.8	12.7	12.7
Court Clerk	137	2,313	713	756	—	12.1	11.8	11.8
Recorders/Transcribers	62	236	172	182	—	4.2	4.4	4.4
Discipline Reporter	—	115	198	210	—	4.6	4.6	4.6
Miscellaneous Administration:								
Equipment	22	10	10	11	—	—	—	—
1988 Core Adjustment	135	142	151	160	—	—	—	—
1988 Financing	—	1,645	1,565	1,565	—	—	—	—
Totals	\$511	\$9,034	\$6,382	\$6,672	—	64.7	64.5	64.5

^a Includes allocated administrative support costs.

Fee Arbitration Program. The bar proposes several program changes to the Fee Arbitration Program through 1991. When fully implemented, the projects will result in additional annual expenditures of \$93,000.

Under this program, the bar establishes procedures by which local bar associations operate arbitration programs to resolve fee disputes between attorneys and clients. In addition, the bar operates its own program, in which it arbitrates disputes that local bars cannot or will not take. The bar program handles approximately 200 fee disputes annually.

Hearing Unit. The bar proposes a variety of one-time and ongoing program changes through 1991 to restructure its forum for hearing discipline cases brought against attorneys. When fully implemented, these changes would result in additional annual costs of \$2.7 million. Currently, approximately 400 volunteer judges hear discipline matters. The bar proposal would replace these volunteers with full-time judges, and provide additional support staff positions. These positions would be phased-in beginning in 1989.

• **Staff and Operating Expenses — Judges and Support Staff.** The bar proposes to replace the volunteer judges with 11 full-time judges, including one presiding judge. These judges would be appointed by the Supreme Court. In accordance with the current distribution of cases, eight judges would be located in Los Angeles and three judges in San Francisco.

The bar indicates that the judges in the Hearing Unit would be comparable to superior court judges within the state court system in several respects. Similar to superior court judges, each judge in the Hearing Unit would serve a six-year term. Their performance would be subject to oversight by the Commission on Judicial Performance which monitors state court judges. The bar indicates that the salaries of the judges would also be similar to the salaries of superior court judges within the state court system. In 1990, the first full year of the unit's operation, the bar proposes to pay the presiding judge \$97,188 and the remaining judges \$90,364.

The bar also proposes to add 14 staff positions to support the judges in the Hearing Unit. This proposal includes the following positions: four attorneys, one paralegal, six judicial secretaries, two legal secretaries, and one receptionist. The bar indicates that these positions would supplement 12 existing positions which support the State Bar Court. Given the number of judges proposed by the bar, we believe that the staffing plan is reasonable. However, the number of support staff necessary to support the Hearing Unit may change if the number of judges is revised.

- **Construction, Furniture, and Lease Expenses.** The bar proposes expenditures of \$1.5 million in 1989 to rent and furnish additional space for the Hearing Unit in Los Angeles. This project would include construction of nine courtrooms, eight judges' chambers, and a private lounge for the judges. In 1991, the bar projects that annual lease costs will be \$247,000.

Appellate Unit. The bar proposes program changes to restructure the panel which reviews decisions of the State Bar Court's Hearing Unit. When fully implemented in 1991, these changes would result in annual expenditures of \$990,000. Currently, the Review Department consists of 18 volunteers, including six nonattorney members. The bar proposal would replace these volunteers with full-time judges, and provide additional support staff positions. These positions would become operative in mid-1989.

The bar proposes to replace the volunteers who serve in the Review Department with three full-time judges, including one presiding judge. These judges would be appointed by the Supreme Court for six-year terms. The judges would hear appeals as a three-member panel, or "en banc," in Los Angeles and San Francisco. The bar proposes the creation of eight positions to support the judges.

As proposed by the bar, these judges would receive salaries comparable to the Chief Justice and Associate Justices of the California Supreme Court. In 1990, the annual salary for the presiding judge would be \$108,576. The associate judges would receive \$103,410. Similar to the Supreme Court members, the appellate judges would be subject to oversight by the Commission on Judicial Performance.

State Bar Court Clerk. The bar proposes a number of program changes to expand the operations of the State Bar Court Clerk. When fully implemented in 1991, these changes would result in additional annual expenditures of \$756,000. As proposed, the bar would incur \$303,000 in one-time costs in 1989, primarily for furniture and construction.

This office provides support to the various units of the State Bar Court, and is centralized in Los Angeles. Duties performed by the clerk's staff include calendaring, serving as courtroom clerks, and providing general clerical functions. The bar proposes to add 10 positions to the staff of the State Bar Court Clerk's Office. These positions would support the proposed Hearing Unit judges located in San Francisco. The new staff members would be hired in mid-1989, and would supplement the 34 positions currently authorized in the clerk's office.

Recorders/Transcribers. The bar proposes additional annual expenditures of \$182,000 to create four recorder/transcriber positions. Both the Los Angeles and San Francisco offices would acquire two positions. All four positions would be hired in mid-1989.

The bar indicates that all courtrooms will be equipped with microphones, which will be wired to recorders in a central recording room. These proposed positions would monitor the recorders for all hearing rooms and transcribe recordings when necessary. According to the bar, creation of these positions would produce savings, because the bar would rely less on the services of certified shorthand reporters.

Discipline Reporter. The bar proposes additional annual expenditures of \$210,000 to produce the *Discipline Reporter*. This publication would consist of three parts: *Current Developments*, which would be published six times a year and contain summaries of discipline case opinions; *Case Dispositions*, which

would be issued twice a year and contain detailed summaries of cases; and *Statutes, Rules, and Policies*, which would be published when changes are made to the Rules of Procedure, the Rules of Practice, and the State Bar Act.

Financing for 1988 Projects Is Uncertain

We recommend that the bar report to the Legislature on its plans to borrow funds to finance 1988 projects and the impact of the plans on member dues. Specifically, the bar should report on the impact of delaying the implementation of these projects on member dues in 1989 and beyond.

The bar proposes to begin a variety of the discipline enhancement projects in 1988. Because the member dues for 1988 have already been set, the bar proposes to finance these projects by securing a commercial loan. The bar assumes that it would secure a three-year bank loan at an interest rate of 10 percent. At these terms, the cost of financing these projects would be \$7.9 million. This amount includes interest payments of \$1.1 million. The borrowed funds would be repaid through increased dues in 1989, 1990, and 1991.

At the time this analysis was prepared, the bar had not finalized its borrowing plans. The bar has received an opinion from the Legislative Counsel that supports the bar's position that it has the authority to borrow funds in the private sector. However, the bar indicates that significant concerns remain about this plan, such as the liability of the Board of Governors if the money cannot be repaid. As a result, several projects proposed for 1988 have already been delayed.

Given the uncertainties associated with this financing strategy, we recommend that the bar report to the Legislature on how it will implement and fund projects proposed for 1988. Specifically, the bar should report on the impact of any changes in its financing plan on the level of member dues in 1989 and beyond.

Increase in Fee Assessment for the Client Security Fund is Premature

We recommend that the proposed increase in the Client Security Fund fee be deleted because the proposal is premature.

In SB 1498, the bar proposes to increase the annual assessment for the Client Security Fund from \$25 to \$45 for each active member beginning in 1989. This fund pays clients up to \$50,000 for losses they incurred as a result of their attorney's misconduct. Assembly Bill 4391 would maintain the Client Security Fund fee at \$25.

The bar indicates that several changes the operation of the Client Security Fund require that additional funding be available. In estimating the amount of additional funding necessary, however, the bar assumes that discipline cases will be concluded in a more timely manner than the current norm, and that additional public outreach efforts will increase the number of claims submitted.

Our analysis indicates that an increase in the assessment for the Client Security Fund is

premature at this time. The impacts of the discipline workload and the effect of increased public outreach on the funding requirements of the Client Security Fund are unclear. In addition, any impacts may not affect the funding of the Client Security Fund until the proposed discipline enhancements are fully implemented in 1991. Consequently,

we recommend that the proposed increase be deleted. The bar can seek a supplemental increase in the fee assessment for the Client Security Fund in a future year, after the bar has sufficient experience and data to demonstrate the impact of the discipline enhancements on the need for additional funds.

Technical Recommendations

Need for Appellate Courtrooms Is Overstated

We recommend that the proposed expenditures for appellate courtrooms in Los Angeles be reduced by \$104,000 because the need for courtrooms is overstated.

In its original request, the bar proposed funding for three appellate courtrooms, two in Los Angeles and one in San Francisco. However, because the judges would sit together as a three-member panel, the bar revised its proposal to reflect that only one courtroom in Los Angeles would be necessary. Consequently, we recommend that the funding proposed for appellate facilities in Los Angeles during 1989 be reduced by the cost of a second courtroom, or \$104,000, to reflect that only one courtroom will be necessary.

Individual Printers Are Not Necessary

We recommend that the number of printers proposed for investigators be reduced by one-half, for a savings of \$45,000.

The bar proposes to provide computers and printers for all 63 investigators in a project to begin during 1988. Although investigators may need to access records or use word processing systems throughout the work day, it is unlikely that a single investigator would utilize a printer continuously. The bar indicates that it would be reasonable for two investigators to share one printer. Consequently, we

recommend that the number of printers proposed for investigators be reduced by one-half, or 31, for a savings of \$45,000.

Furniture Expenses Are Double-Counted

We recommend that the proposed expenditures for expansion of the Administrative Compliance Unit staff be reduced by \$9,000 in 1989 because certain furniture expenses have been double-counted.

In its Administrative Compliance Unit staff expansion proposal, the bar includes \$9,000 for desks and chairs for the new positions. That amount is duplicated in the proposal for office furniture. Accordingly, we recommend that the staff expansion request be reduced by \$9,000 to eliminate overbudgeting.

Recruiting Costs Are Overstated

We recommend that proposed recruiting expenditures be reduced by \$8,000 in 1989 because the expenditures are unnecessary.

In its proposals for new staff positions, the bar includes the costs of recruiting for each position. Typically, the bar includes \$250 as the cost of recruiting one position. In our examination of the bar's recruiting costs and anticipated hire dates, we found that the bar included additional recruiting costs for positions which it will have already filled. Specifically, this results in overbudgeting of \$8,000 in 1989. Accordingly, we recommend that the bar's budget be reduced by that amount to eliminate this overfunding.

Proposals Make Restorations to 1988 Budget Unnecessary

We recommend that the proposed adjustment to the 1988 budget be reduced by \$41,000 to reflect the effect of other discipline enhancement proposals.

The bar proposes to restore various budget cuts it made in 1988. We believe that three of these proposed restorations are unnecessary. Consequently, we recommend that the bar's budget for 1989 be reduced by \$41,000.

First, we recommend a reduction of \$30,000 proposed to restore the temporary help budget of the Court Clerk's Office because the 10 positions proposed by the bar would eliminate much of the need for overtime help.

Second, we recommend a reduction of \$6,000 proposed for increased expenses of

bringing together the Executive Committee for periodic meetings. Senate Bill 1498 revises the composition of the Executive Committee. As proposed, the Executive Committee would consist of State Bar Court representatives who are located primarily in Los Angeles. The proximity of the members would greatly lower the cost of bringing the members together.

Third, we recommend a reduction of \$5,000 proposed for increased expenses associated with meetings of the Review Department. The bar also proposes to replace the current department, which includes 18 members, with three full-time judges who would sit together as the Appellate Unit. The proposed revision of this unit would lower the cost of bringing the members together. ♦

Appendix

Appendix

In this report we have examined separately the State Bar's budget proposals supported by AB 4391 and SB 1498. Table 3 in Chapter 1 shows the level of members' fees proposed in AB 4391. Table 10 in Chapter 2 shows the level of fees authorized in SB 1498. Because the fee

schedules proposed in each bill are separate and exclusive of each other, the Legislature may wish to consider each bill separately. Table 15 shows the *combined* effect on members' fees if *both* bills are enacted.

Table 15
State Bar of California
Combined Effect on Member Fees Authorized
by AB 4391 and SB 1498
1988 through 1991

Membership Category	1988	1989		1990		1991		Percent Change From 1988
	Fees ^a	Fees ^b	Increase	Fees ^b	Increase	Fees ^b	Increase	
Less than 1 year	\$176	\$373	\$197	\$408	\$35	\$408	—	132%
1 to 3 years	207	404	197	439	35	439	—	112
Over 3 years	275	472	197	507	35	507	—	84
Inactive ^c	50	50	—	50	—	50	—	—

^a For active members, 1988 fees include \$25 discipline fee, \$25 Client Security Fund fee, and \$10 Building Fund fee.

^b For active members, fees in 1989, 1990, and 1991 include \$25 discipline fee, \$45 Client Security Fund fee, \$10 Building Fund fee, and \$1.90 discipline monitor fee.

^c For inactive members, fees include \$40 general fee and \$10 Building Fund fee in 1988 through 1991.