cover gas costs for next year. But SDG&E later abandoned this request and indicated that it would maintain the gas-cost component of its rates at present levels. In light of the major restructure of gas rates which the PUC has undertaken and will soon implement, insignificant adjustments are unnecessary.

Moreover, the utility also noted that its supplier, Southern California Gas Company, has pending a request to lower wholesale rates. At the same January 14 meeting, despite granting an overall 6.6% rate increase for all SoCal customers, the PUC lowered by 2% the price at which SDG&E purchases gas from SoCal. New Deukmejian appointee G. Mitchell Wilk abstained from the SoCal vote because of a conflict of interest.

On January 28, the PUC concluded its examination of SDG&E fuel costs for 1988, and decided to decrease electricity rates 6.3% or $85.5 million per year. Contributing factors included the decreasing price of natural gas and oil as well as the availability of electricity generated at San Onofre Nuclear Generating Station. Residential users, who have traditionally received larger breaks than industry, received only a 1.5% decrease, while commercial customers received 6.7%-11.2% decreases. The Commission allowed larger decreases to commercial and industrial users because approximately 33% of SDG&E's sales to these customers are jeopardized because they are exploring the possibility of generating their own electricity. If these customers leave the system, remaining customers would be left to pay fixed costs now shared with those large customers.

Also on January 28, the PUC granted authority to Trailways Lines, Inc. to abandon bus service along Interstate 5 north of Sacramento because "public convenience and necessity" no longer require it. In 1983, the company cut its twice-daily service in half, resulting in a loss of revenue. In August 1984, Trailways added another route to the northwest. This additional route produced a further increase in expenses without an increase in passengers sufficient to make a profit. In one year, Trailways lost $200,314—a deficit from which it could not recover.

In response to a series of administrative hearings and legislation signed by the Governor last year, the PUC has implemented a plan to increase business opportunities for women- and minority-owned businesses. The bill requires all gas, electric, and telephone companies with gross annual revenues in excess of $25 million to submit to the PUC detailed plans for increasing women- and minority-owned business contract procurement participation. The PUC scheduled a pre-hearing conference in April to prepare guidelines for reviewing the submitted plans.

The PUC granted approval for ferry service from San Diego to Santa Catalina Island and possibly cross-bay trips to Coronado. The PUC approved plans for two separate lines which will compete for passengers on round-trip service between San Diego and Catalina. One company is commissioning a new vessel for its San Diego run which will be able to carry 250 passengers at a top speed of 35 knots. This boat would be able to make the trip in about two hours and ten minutes.

In its annual revision of the household income level for Universal Lifeline Telephone Service customers, the PUC has raised the level from $11,900 to $12,100 for a household of one or two persons. The legislation which created the Lifeline service requires the Commission to annually adjust the income limit to reflect inflation based on the Federal Consumer Price Index. The new income limit is effective on March 8, 1987.

Additionally, the PUC has authorized PacBell to provide inside wiring repair insurance at 25 cents per month to Lifeline service customers, which is in keeping with Lifeline service costs at one-half the flat rate. The PUC also reinstated a 50% discount for the installation of telephone jacks. The discount had been eliminated pursuant to the FCC's decision to deregulate inside wire repair and inside wire jack installation. The PUC believes that elimination of the latter discount is unfair and in violation of General Order 153, which implemented the legislation creating the Lifeline service.

The PUC outlined recent Commission actions to provide relief to farmers from high electricity rates. Last year, the Commission gave the agricultural class a larger-than-planned rate decrease in order to help the state's farmers during adverse economic conditions. Unfortunately, farmers' cost of service remains high because they have been unable to respond to special programs such as time-of-use (TOU) rates. These rates provide lower rates to customers who use energy during off-peak hours. Farmers, however, often need to pump water during those hours. A new rate design responds to this problem allowing farmers to pump on peak for half the week.

FUTURE MEETINGS:

The full Commission usually meets every other Wednesday in San Francisco.

STATE BAR OF CALIFORNIA

President: Orville A. Armstrong
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The State Bar of California was created by legislative act in 1927 and codified in the California Constitution by Article VI, section 9. The State Bar was established as a public corporation within the judicial branch of government, and membership is a requirement for all attorneys practicing law in California. Today, the State Bar has over 100,000 members, more than one-seventh of the nation's population of lawyers.

The State Bar Act designates the Board of Governors to run the State Bar. The Board consists of 22 members: fifteen licensed attorneys elected by lawyers in nine geographic districts, six public members appointed by the Governor of California and confirmed by the state Senate, and a representative of the California Young Lawyers Association (CYLA) appointed by that organization's Board of Directors. Beginning in 1983, the Senate Committee on Rules and the Speaker of the Assembly each appoints one public member every three years. The Governor will continue to fill the remaining four public member seats. With the exception of the CYLA representative, who serves for one year, each Board member serves a three-year term. The terms are staggered to provide for the selection of five attorneys and two public members each year.

The State Bar includes 22 standing committees, 12 sections in ten substantive areas of law, three regulatory boards, Bar service programs and the Conference of Delegates, which gives a representative voice to the 113 local bar associations throughout the state.

The State Bar and its subdivisions perform a myriad of functions which fall into six major categories: (1) testing State Bar applicants and accrediting law schools; (2) enforcing professional standards and enhancing competence; (3) supporting legal services delivery and access; (4) educating the public; (5) improving the administration of justice; and (6) providing member services, including publishing the *California Lawyer* magazine.

MAJOR PROJECTS:

Mandatory Continuing Legal Education Study. For the fourth time in six-

teen years, the State Bar is tackling the thorny issue of whether lawyers should be required to take continuing legal classes as a prerequisite to remaining in the practice. As recently as 1984, a similar proposal died on a tie vote in a committee of the Bar's Board of Governors. However, State Bar President Orville Armstrong, concerned with the growing public and legislative interest in mandatory legal education, has stated that the Bar must be in the forefront of any such program.

Fourteen states already require some form of mandatory continuing education. But the California Bar has struggled with the concept since the early 1970s when the state legislature began pressing the idea. In 1974, the Board of Governors approved a mandatory program of relicensing lawyers. But the Board rescinded its action in 1977 after a committee appointed to set up the program reported lawyer opposition ranging from the "irate to the hysterical." The next year, that same committee recommended a different but also mandatory program of sixty hours of continuing education every five years, but that proposal died in 1981 after opposition from lawyers.

A seven-member commission is presently studying the necessity, feasibility and practicability of a mandatory continuing legal education program.

Mandatory Malpractice Insurance Proposed. The State Bar's Commission on Professional Liability, chaired by Terry Anderlini, recently unveiled a proposal for mandatory malpractice insurance for California lawyers. The proposal would guarantee coverage for an estimated 30,000 attorneys now practicing law in this state without insurance.

Under the proposal, two types of insurance policies would be offered. For a premium of $2,288, Plan A would offer coverage up to $100,000 per occurrence or $300,000 aggregate per year. The first $50,000 in defense costs would be paid by the insurer; beyond that, costs would be paid from indemnity coverage until that fund is exhausted. Plan B carries a premium of $2,875, offers the same coverage, but places no limit on defense costs. Deductibles ranging from $1,000 to $100,000 could be included to significantly reduce the annual premium for both plans. The plan also offers reduced rates to lawyers who have been practicing three years or less.

The Commission has debated the advantages and disadvantages to the mandatory insurance proposal. The primary advantage is that, because participation is mandatory, every lawyer in private practice (an estimated 62,000 of the 103,000 lawyers in California) would be insured. Only government lawyers, corporate counsel, legal aid lawyers, public defenders, and patent lawyers would be exempt from the plan. The program also offers premium rates which are cheaper than most other policies on the market. However, many lawyers earning less than $30,000 per year (such as sole practitioners and parttime attorneys) may not be able to afford even the plan's premiums. Also, some Commission members expressed concern that the plan's premium rates would dramatically increase once the mandatory plan is established, yet lawyers could not escape from the required program.

Seven public hearings have been scheduled throughout the state on the proposal.

Bar Exam Fee Increase. A proposal is currently pending before several State Bar committees which would raise the cost of taking the California Bar Exam to $396. Beginning with the February 1988 exam, all other exam-related fees would also be raised by 11.5%, in order to build a $1 million reserve for the Board of Governors' Committee of Bar Examiners. The Committee states that the reserve is needed to cover its recent deficit spending and to cover various contigencies.

It is anticipated that the Board of Governors will act on the proposal at its May 8-9 meeting.

LEGISLATION:

AB 29 (Killea) would require all lawyer referral services to register with the State Bar. The bill exempts nonprofit referral services which meet the minimum requirements of the Supreme Court from any civil liability.

AB 245 (Harris) would allow courts to impose costs on a party or a party's attorney incurred by another party as a result of bad faith actions or tactics that are frivolous or that cause unnecessary delay. This bill changes existing law which allows costs to be imposed on a party or a party's attorney in cases involving bad faith actions or frivolous tactics *solely* intended to cause unnecessary delay.

AB 344 (Connelly) would increase the number of State Bar vice presidents from four to five.

AB 577 (Stirling) would provide that an appearance at a hearing at which ex parte relief is sought, or an appearance at a hearing for which an ex parte application for a provisional remedy is made, is not a general appearance and does not waive a party's right to quash service of summons on the ground of lack of jurisdiction or move to dismiss the action on the ground of an inconvenient forum.

SB 123 (Garamendi) is urgency legislation which would be effective immediately upon signing by the Governor. Existing law establishes the Dispute Resolution Advisory Council, which is required to establish guidelines for dispute resolutions programs. It authorizes counties to establish programs of grants to public entities and nonprofit corporations for the establishment and continuance of dispute resolution programs. A fee of not less than one dollar and no more than three dollars may be included by a county within the total fees collected and fixed by statute for the filing of a first paper in a civil action in the superior or municipal court, and may be used for the support of these programs.

SB 123 would require that the advisory council adopt temporary guidelines for dispute resolution programs within six months of its initial meeting. Furthermore, any filing fee increases collected by the county for this program shall be only used for this program. The fees collected may be carried over by the county from one year to the next until it establishes a dispute resolution program.

SB 232 (Davis) would limit the number of peremptory challenges in criminal trials to six each for the prosecution and the defense if the offense charged is punishable with a maximum term of one year or less.

The bill also deletes the requirement that the court in a criminal trial allow reasonable examination of prospective jurors by counsel for the prosecution and for the defendant. Instead, this bill would permit the court to conduct the examination, or allow the attorneys to do so.

Finally, SB 232 also changes the requirement imposed by the California Supreme Court that portions of juror voir dire examinations in capital cases dealing with issues involving death be done individually and in sequestration. This bill requires that the examination of any prospective juror in a capital case be conducted in the presence of the other prospective jurors, unless the parties stipulate otherwise, or unless the court determines that extraordinary circumstances demand that the jurors be examined individually and in seques-

tration in order that an impartial jury be selected.

SB 241 (Lockyer) would eliminate the January 1, 1989 termination date in section 411.30 of the Code of Civil Procedure, which requires an attorney for a plaintiff in any action arising out of the professional negligence of a medical doctor to file a certificate declaring that the attorney has reviewed the case with a doctor, and that the attorney has concluded that there is a reasonable and meritorious cause for the filing of the action.

AB 659 (McClintock) would prohibit an attorney from contracting for or collecting a contingency fee for representing any person seeking damages in any civil action in excess of 110% of the amount of the fee chargeable by the attorney based on billable hours devoted to the action at his/her usual and customary rates for services. The bill would also revise the required contents of contingency fee contracts.

RECENT MEETINGS:

At a March 7 meeting, the State Bar's Board of Governors approved an expenditure of up to $320,000 for the hiring of up to ten new investigators in the Office of Investigations to handle the multitude of consumer complaints against attorneys. The Bar's enormous backlog of aging complaints has attracted considerable legislative attention; in fact, Chapter 2, Statutes of 1986 requires the Bar by December 31, 1987, to reduce by 80% the complaints within its inventory as of March 31, 1985, which have been received but have not resulted in dismissal, admonishment of the attorney involved, or filing of formal charges by the Office of Trial Counsel. Bar officials reported to the Board of Governors that the Bar will fail to meet the December 31 deadline unless more investigators are hired immediately. Although the Bar can afford the additional investigators for the remainder of 1987 because of sufficient money in its contingency fund, Bar dues may have to be increased during 1988, when expenses for the extra investigators will cover a full year instead of just eight months.

Also on March 7, the Board voted to create a fifteen-member ad hoc committee to study whether the Bar should establish a new State Bar Section on General Practice. The Committee must report to the Board with recommendations before August 1987. In considering the proposal, the Board noted that 80% of all private practitioners are in general practice, and also that 24 states have already created General Practice Sections. The Section, if created, would attempt to provide programs applicable to the general practitioner.

The Board also agree to a two-year endorsement of TEL-LAW, a nonprofit organization which provides free taped legal information to the public in the Riverside and San Bernardino areas. Several Board members in opposition to the proposal expressed concern that not all the tapes had been reviewed by the State Bar, and also that the endorsement might expose the State Bar to potential liability. However, the Board passed the proposal after it heard that TEL-LAW had never been sued, and also that most of the tapes were modeled after brochures already distributed by the State Bar.

Finally, the Board agreed to postpone until April a proposal which would have allowed the registration of foreign lawyers, who after registration would be allowed to offer limited legal services in California.

At its January 24 meeting in Los Angeles, the Board of Governors approved substantial revisions to the Rules of Procedure of the State Bar. The amended rules became effective February 15, 1987 and apply to all proceedings before the State Bar which commenced on or after Jaunary 1, 1987. Several of the changes are summarized below.

Previously the Executive Committee of the State Bar Court was composed of the presiding referee; four assistant presiding referees; two non-lawyer referees appointed by the Governor pursuant to section 6086.6 of the Business and Professions Code; and four lawyer referees and two non-lawyer referees, each of whom is appointed by the presiding referee. Under revised Rule 110, the Executive Committee is now composed of a presiding referee; three assistant presiding referees; and the following referees appointed to the Executive Committee by the presiding referee: two lawyer referees, three non-lawyer referees of which one referee each has already been appointed to the position of referee by the Governor, the Speaker of the Assembly, and the Senate Committee on Rules pursuant to section 6086.6 of the Business and Professions Code.

Rule 201 was amended to comply with section 6002.1 of the Business and Professions Code. Previously, former members and members were only required to maintain current office addresses with the State Bar. Under the amended rule, in addition to office addresses, members and former members must also provide to the Bar all specialties in which the member is certified, any other jurisdictions in which the member is admitted, and the nature and date of discipline imposed on the member by another jurisdiction.

The Board of Governors added Rule 212, which requires a special examiner to be appointed in the event of a disciplinary complaint against a State Bar examiner, a State Bar employee, member of the Board of Governors, a referee of the State Bar Court, a member of the new Complainants Grievance Panel, or a retired judge serving as a compensated referee. The special examiner will serve at the pleasure of the Special Examiner Committee, and shall have all the powers and duties of, and will substitute for, the Office of Investigations, the Office of Trial Counsel, and the Chief Trial Counsel.

Prior to amendment, Rule 222 stated that the State Bar may advise a complainant of the status of an investigation or formal proceeding. Under the revision, the State Bar *shall* advise the complainant and any lawful designee of the complainant of the status of the complaint.

Rule 225 regarding public hearings was expanded to require that, in addition to original disciplinary proceedings, conviction proceedings, probation revocation proceedings, reinstatement proceedings, and Rule 955 hearings, the following formal proceedings shall be public hearings: Client Security Fund hearings referred to the State Bar Court by the Client Security Fund Commission; lawyer referral service proceedings; legal services trust fund proceedings within the scope of Rule 779; proceedings pursuant to section 6007(c) of the Business and Professions Code regarding inactive enrollment; and expedited disciplinary proceedings following discipline of a member by another jurisdiction under Rule 800.

Prior to amendment, Rule 231 prohibited former members of the Board of Governors, the Committee of Bar Examiners, referees of the State Bar Court, and employees of the State Bar Court from representing any party before the State Bar Court during their term of office and until one annual meeting of the State Bar has passed after the expiration of the term for which he/she was appointed. The revised rule includes as disqualified persons retired judges assigned to hear State Bar disciplinary matters, and prohibits disqualified persons from representing persons before the State Bar Court during their term of office or until at least six months have

elapsed after expiration of the term for which he/she was appointed.

Rule 321 was amended to provide that a party's failure to deny a matter of fact specified in a request for admission within the time afforded to respond shall be deemed an admission. The party in whose favor the fact has been admitted will not be required to prove the fact. Within thirty days after the service of notice that the fact has been admitted under this rule, the party against whom the fact has been admitted may seek relief from the admission upon a satisfactory showing to a referee of the State Bar Court that the admission was the result of a mistake or excusable neglect, and the admitted fact is actually denied by the party.

New Rule 460, which was authorized by Chapter 622, Statutes of 1986, requires the presiding referee, when administering a public reproval, to order the disciplined member to pay the costs of the disciplinary proceedings. Furthermore, the presiding referee, when either recommending to the Supreme Court that a member should be disbarred or suspended, or informing the Supreme Court that a member has resigned with charges pending, shall include, with the record of either the State Bar proceedings or of the member's resignation, a certificate of the Clerk of the State Bar Court fixing costs.

New Rule 461 sets out the costs which may be assessed under Rule 460, including the expense of keeping a record, the costs recoverable by the Bar in a civil action allowed by section 1032 and 1033.5(a), Code of Civil Procedure, the expense of administrative processing of disciplinary proceedings, and the expense of administrative processing of the State Bar security fund. Expenses which may not be assessed include attorneys' fees and expert witness fees.

Under new Rule 462, a member assessed costs under Rule 460 may petition the State Bar Court, upon grounds of hardship, special circumstances or other good cause, for a complete or partial reduction in costs or for an extension of the time to pay those costs. The petition for relief shall be filed no later than thirty days from the date of service of the order assessing costs. The State Bar shall assign the petition to a referee of the hearing department, who shall render a decision fifteen days after the petition is taken under submission. Within fifteen days after the hearing officer's decision, the State Bar or the member may file a petition for review with the presiding referee. The presiding referee's action shall be the final decision of the State Bar on a petition under this rule.

Under Rule 463, an attorney exonerated of all disciplinary charges following formal hearing by the hearing department and decision of the review department may file, within thirty days of notice of exoneration, a petition with the State Bar Court requesting reimbursement of costs incurred by the attorney in his/her defense. The referee assigned to the petition shall determine the reasonable expenses which the attorney may recover. Costs recoverable do not include attorneys' fees or expert witness fees.

Under the previous Rule 508, only an examiner could terminate a matter if the examiner concludes (a) there is no legal ground for action by the State Bar, or (b) there is lack of sufficient evidence to support a determination of reasonable cause for issuance of a notice to show cause. Under the revised rule, the Office of Investigation may also terminate a matter on the basis of either of the above-stated grounds.

Under previous Rule 554.1, a referee's ruling was final on a motion to dismiss a notice to show cause on the ground that it fails to state a disciplinable offense as a matter of law. Under the revised rule, the ruling of the referee on the motion shall be reviewed by the review department.

Under revised Rule 612, a hearing panel or referee may recommend and the review department may order the involuntary, inactive enrollment of a member.

FUTURE MEETINGS:

May 8-9 in San Francisco.