



Attorneys who want to practice law in Arizona must pay the State Bar of Arizona mandatory member dues. The State Bar of Arizona uses this money to regulate the practice of law and to engage in other activities, including lobbying and other political activity.

HB 2221 accomplishes two things. First, so long as the State Bar regulates the practice of law, HB 2221 subjects the State Bar to public records laws. Second, HB 2221 protects attorneys' free speech rights by requiring that mandatory dues be used only for regulation. The bill allows the State Bar to continue to collect voluntary dues to pay for its other operations.

HB 2221 respects the free speech rights of attorneys

The Goldwater Institute opposes conditioning the practice of law on bar membership because coerced membership violates the rights to free speech and free association guaranteed by the United States and Arizona Constitutions. HB 2221 limits the violation of the free speech rights of attorneys by requiring the State Bar only use mandatory dues for the direct regulation of the practice of law.

Limiting attorneys' forced funding of the State Bar only to regulatory activities is not a radical proposition. 18 states—Arkansas, Colorado, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Minnesota, New Jersey, New York, Ohio, Pennsylvania, Tennessee, and Vermont—already regulate attorneys *without* compelling membership at all. These states demonstrate that violating attorneys' free speech rights is unnecessary to ensure the practice of law is safely regulated.

HB 2221 increases transparency of the State Bar

While the State Bar plays a large role in regulating the practice of law, it is not subject to ordinary transparency measures such as public records laws. HB 2221 addresses this problem by subjecting the State Bar to the normal public records requirements all other regulatory agencies in the State are subject to.

The State Bar can already engage in lobbying on activities unrelated to the regulation of the practice of law; HB 2221 does nothing to change this

Under *Keller v. State Bar of California*, 496 U.S. 1 (1990), the State Bar cannot compel attorneys to fund the Bar's lobbying activities unrelated to regulating the practice of law. But nothing in that case prevents the State Bar from collecting voluntary funds from attorneys to engage in any political activity that it wants. Just because the State Bar presently has a policy that it will not engage in political activities beyond those authorized in *Keller*, there is nothing to stop the Bar from changing that policy tomorrow. As a result, HB 2221 has no bearing on whether or not the State Bar will expand the array of political activities it chooses to engage in.

HB 2221 allows the Arizona Supreme Court to continue to delegate regulatory functions to the State Bar

The Arizona Supreme Court has interpreted the Arizona Constitution as giving the Court authority to regulate of the practice of law, including the power to determine who may practice law and under what conditions. HB 2221 respects that interpretation. The bill allows the State Bar to receive funds related to regulatory functions. HB 2221 does not, however, dismantle the State Bar, prevent the Supreme Court from delegating regulatory functions to the State Bar, or require attorneys to join the State Bar to further its regulatory functions. If the Arizona Supreme Court would like to maintain the regulatory structure as it presently stands, it can. All HB 2221 does is increase the Bar's transparency should it continue to function as a regulator and prevent attorneys from being forced to fund the State Bar's activities beyond regulation.