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GOVERNMENT CODE - GOV

TITLE 1. GENERAL [100 - 7931.000] (Title 1 enacted by Stats. 1943, Ch. 134.)

DIVISION 4. PUBLIC OFFICERS AND EMPLOYEES [1000 - 3599.84] (Division 4 enacted by Stats. 1943, Ch. 134.)

CHAPTER 2. Appointments, Nominations, Commissions, and Oaths [1300 - 1369] (Chapter 2 enacted by Stats. 1943, Ch. 134.)

ARTICLE 4. Oath of Office [1360 - 1369] (Article 4 enacted by Stats. 1943, Ch. 134.)

1360. Unless otherwise provided, following any election or appointment and before any officer enters on the duties of his or her office, he or she shall take and subscribe the oath or affirmation set forth in Section 3 of Article XX of the Constitution of California. (Amended by Stats. 2017, Ch. 387, Sec. 2. (SB 205) Effective January 1, 2018.)

1362. Unless otherwise provided, the oath may be taken before any officer authorized to administer oaths. (Enacted by Stats. 1943, Ch. 134.)

1363. (a) Unless otherwise provided, every oath of office certified by the officer before whom it was taken shall be filed within the time required as follows:

(1) The oath of all officers whose authority is not limited to any particular county, in the office of the Secretary of State.

(2) The oath of all officers elected or appointed for any county, and, except as provided in paragraph (4), of all officers whose duties are local, or whose residence in any particular county is prescribed by law, in the office of the county clerk of their respective counties.

(3) Each judge of a superior court, the county clerk, the clerk of the court, the executive officer or court administrator of the superior court, and the recorder shall file a copy of that person's official oath, signed with that person's own proper signature, in the office of the Secretary of State as soon as that person has taken and subscribed the oath.

(4) The oath of all officers for any independent special district, as defined in Section 56044, in the office of the clerk or secretary of that district.

(b) In addition to filing pursuant to subdivision (a), a health officer appointed pursuant to Section 101000 or 101460 of the Health and Safety Code shall file their oath in the office of the Secretary of State.

(c) (1) In its discretion, the board of supervisors of a county may require every elected or appointed officer or department head of that county who legally changes their name, delegated authority, or department, within 10 days from the date of the change, to file a new oath of office in the same manner as the original filing. The county may maintain a record of each person so required to file a new oath of office indicating whether or not the person has complied. Any record maintained pursuant to this paragraph is a public record subject to disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000)).

(2) Notwithstanding any other law, including, but not limited to, Sections 1368 and 1369, failure of an elected or appointed officer or department head of a county to file a new oath of office required by the board of supervisors pursuant to this subdivision shall not be punishable as a crime.

(d) Every oath of office filed pursuant to this section with the Secretary of State shall include the expiration date of the officer's term of office, if any. In the case of an oath of office for an appointed officer, if there is no expiration date set forth in the oath, or the officer leaves office before the expiration date, the appointing authority shall report in writing to the Secretary of State the officer's date of departure from office.

(e) The powers of an appointed officer of a county are no longer granted upon the officer's departure from office. In its discretion, the board of supervisors of a county may require the appointing authority to rescind these powers in writing by filing a revocation in the same manner as the oath of office was filed.

(Amended (as amended by Stats. 2021, Ch. 615, Sec. 136) by Stats. 2022, Ch. 124, Sec. 1. (AB 2324) Effective January 1, 2023.)

1364. It is unlawful to remove a person from an office or position of public trust because such person has not complied with any law, charter, or regulation prescribing an additional test or qualification for such office or position of public trust, other than tests and qualifications provided for under civil service and retirement laws, whenever such person:

(a) Holds the office or position of public trust, and

(b) Upon entering upon the office or position of public trust, has taken, or after his election or appointment, has offered to take the oath of office prescribed by this article.

(Enacted by Stats. 1943, Ch. 134.)

1365. It is unlawful for any person having the power of removal from office of any officer to remove or threaten to remove the officer from his office because the officer, in the appointment of any person to a position of public trust under himself, refuses to require any additional test or qualification, other than the oath prescribed by this article and tests and qualifications provided for under civil service and retirement laws, as a condition of permitting the appointee to enter upon or remain in the position of public trust.

(Enacted by Stats. 1943, Ch. 134.)

1366. Any officer or person who is removed or threatened with removal from any office or position of public trust may bring an action to restrain such unlawful removal or to enforce restoration by process of injunction, both prohibitory and mandatory, if the real reason for the removal or threat thereof is noncompliance with provisions requiring such additional test or qualification or the refusal to require any additional test or qualification in the appointment to a position of public trust.

(Enacted by Stats. 1943, Ch. 134.)

1367. No compensation nor reimbursement for expenses incurred shall be paid to any officer by any public agency unless he has taken and subscribed to the oath or affirmation required by this chapter.

(Added by Stats. 1953, Ch. 1250.)

1368. Every person who, while taking and subscribing to the oath or affirmation required by this chapter, states as true any material matter which he or she knows to be false, is guilty of perjury, and is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for two, three, or four years.

(Amended by Stats. 2011, Ch. 15, Sec. 124. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 68.)

1369. Every person having taken and subscribed to the oath or affirmation required by this chapter, who while holding office, advocates or becomes a member of any party or organization, political or otherwise, that advocates the overthrow of the government of the United States by force or violence or other unlawful means, is guilty of a felony, and is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code.

(Amended by Stats. 2011, Ch. 15, Sec. 125. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 68.)