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GOVERNMENT CODE - GOV

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980] (Title 2 enacted by Stats. 1943, Ch. 134.)

DIVISION 3. EXECUTIVE DEPARTMENT [11000 - 15990.3] (Division 3 added by Stats. 1945, Ch. 111.)

PART 1. STATE DEPARTMENTS AND AGENCIES [11000 - 11898] (Part 1 added by Stats. 1945, Ch. 111.)

CHAPTER 2. State Departments [11150 - 11201] (Chapter 2 added by Stats. 1945, Ch. 111.)

ARTICLE 2. Investigations and Hearings [11180 - 11191] (Article 2 added by Stats. 1945, Ch. 111.)

11180. The head of each department may make investigations and prosecute actions concerning:

- (a) All matters relating to the business activities and subjects under the jurisdiction of the department.
- (b) Violations of any law or rule or order of the department.
- (c) Such other matters as may be provided by law.

(Added by Stats. 1945, Ch. 111.)

11180.5. At the request of a prosecuting attorney or the Attorney General, any agency, bureau, or department of this state, any other state, or the United States may assist in conducting an investigation of any unlawful activity that involves matters within or reasonably related to the jurisdiction of the agency, bureau, or department. This investigation may be made in cooperation with the prosecuting attorney or the Attorney General. The prosecuting attorney or the Attorney General may disclose documents or information acquired pursuant to the investigation to another agency, bureau, or department if the agency, bureau, or department agrees to maintain the confidentiality of the documents or information received to the extent required by this article.

(Amended by Stats. 2003, Ch. 876, Sec. 5. Effective January 1, 2004.)

11181. In connection with any investigation or action authorized by this article, the department head may do any of the following:

- (a) Inspect and copy books, records, and other items described in subdivision (e).
- (b) Hear complaints.
- (c) Administer oaths.
- (d) Certify to all official acts.
- (e) Issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, any writing as defined by Section 250 of the Evidence Code, tangible things, and testimony pertinent or material to any inquiry, investigation, hearing, proceeding, or action conducted in any part of the state.
- (f) Promulgate interrogatories pertinent or material to any inquiry, investigation, hearing, proceeding, or action.
- (g) Divulge information or evidence related to the investigation of unlawful activity discovered from interrogatory answers, papers, books, accounts, documents, and any other item described in subdivision (e), or testimony, to the Attorney General or to any prosecuting attorney of this state, any other state, or the United States who has a responsibility for investigating the unlawful activity investigated or discovered, or to any governmental agency responsible for enforcing laws related to the unlawful activity investigated or discovered, if the Attorney General, prosecuting attorney, or agency to which the information or evidence is divulged agrees to maintain the confidentiality of the information received to the extent required by this article.
- (h) Present information or evidence obtained or developed from the investigation of unlawful activity to a court or at an administrative hearing in connection with any action or proceeding.

(Amended by Stats. 2003, Ch. 876, Sec. 6. Effective January 1, 2004.)

11182. The head of a department may delegate the powers conferred upon him by this article to any officer of the department he authorizes to conduct the investigation or hearing.

(Added by Stats. 1945, Ch. 111.)

11183. Except in a report to the head of the department or when called upon to testify in any court or proceeding at law or as provided in Section 11180.5 or subdivisions (g) and (h) of Section 11181, an officer shall not divulge any information or evidence acquired by the officer from the interrogatory answers or subpoenaed private books, documents, papers, or other items described in subdivision (e) of Section 11181 of any person while acting or claiming to act under any authorization pursuant to this article, in respect to the confidential or private transactions, property or business of any person. An officer who divulges information or evidence in violation of this section is guilty of a misdemeanor and disqualified from acting in any official capacity in the department.

(Amended by Stats. 2003, Ch. 876, Sec. 7. Effective January 1, 2004.)

11184. (a) In any hearing in any part of the state or in any investigation conducted under this article, the head of the department shall issue process and subpoenas in a manner consistent with the California Constitution and the United States Constitution, and the process and subpoenas shall be served in the same manner as provided for the service of a summons as described in Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure. Service of process and subpoenas may be effectuated by any person designated for that purpose by the head of the department. The person serving any process or a subpoena may receive compensation as is allowed by the head of the department not to exceed the fees prescribed by law for similar service. This compensation shall be paid in the manner provided in this article for the payment of the fees of witnesses.

(b) If the subpoena requires oral testimony from a witness who is not a natural person, the subpoena shall describe, with reasonable particularity, the matters on which examination is requested. In that event, the subpoenaed witness shall designate and produce at the hearing those natural persons who are most qualified to testify on behalf of the subpoenaed witness about those matters to the extent of any information known or reasonably available to the subpoenaed witness. The subpoena shall notify the witness named in the subpoena of its duty to designate and produce natural persons to testify as described in this subdivision.

(Amended by Stats. 2003, Ch. 876, Sec. 8. Effective January 1, 2004.)

11185. (a) If the witness named in the subpoena is a natural person, the person is not obliged to attend as a witness in any matter under this article at a place out of the county in which he or she resides, unless the distance is less than 75 miles from his or her place of residence.

(b) If the witness named in the subpoena is not a natural person and has an office within this state, the subpoena may provide that the testimony of the persons designated to appear on behalf of the witness, as described in subdivision (b) of Section 11184, shall be given in the county in which the witness named in the subpoena has its principal executive or business office in this state or within 150 miles of that location.

(c) If the witness conducts business in this state but does not reside or have an office within this state, the subpoena may provide that oral testimony shall be given at a location that is within 75 miles of the residence or executive or business office of the witness.

(d) If the witness does not reside, have an office, or conduct business in this state, the testimony shall be given and documents and other items produced at a location set by a court.

(e) The department head may require any person who resides or conducts business in this state to produce the documents and other items described in subdivision (e) of Section 11181 at a location in the county in which the department head or the Attorney General maintains an office.

(f) Nothing in this section prevents the department head and subpoenaed person from agreeing that testimony may be given or production made at any location.

(Amended by Stats. 2003, Ch. 876, Sec. 9. Effective January 1, 2004.)

11186. The superior court in the county in which any hearing is held or any investigation is conducted under the direction of the head of a department or the county in which testimony is designated to be given or documents or other items are designated to be produced, has jurisdiction to compel the attendance of witnesses, the giving of testimony, the answering without objection of interrogatories, and the production, inspection, and copying of papers, books, accounts, documents, and other items described in subdivision (e) of Section 11181 as required by any subpoena issued by the department head.

(Amended by Stats. 2003, Ch. 876, Sec. 10. Effective January 1, 2004.)

11187. (a) Except as provided in subdivision (c), if any witness refuses to answer any interrogatory or to attend or testify or produce or permit the inspection or copying of any papers or other items described in subdivision (e) of Section 11181 required by subpoena, the head of the department may petition the superior court in the county in which the hearing or investigation is pending or the county in which testimony is designated in the subpoena to be given or documents or other items are designated in the subpoena to be produced, for an order compelling the person to answer the interrogatories or to attend and testify or produce and permit the inspection and copying of the papers or other items required by the subpoena before the officer named in the subpoena.

(b) The petition shall set forth all of the following:

(1) That due notice of the time and place for answering the interrogatories or testifying or the attendance of the person or the production of the papers or other items described in subdivision (e) of Section 11181 was given.

(2) That the person was subpoenaed or required to answer interrogatories in the manner prescribed in this article.

(3) That the person failed and refused to answer the interrogatories or to attend or testify or produce or permit the inspection or copying of the papers or other items required by subpoena before the officer in the cause or proceeding named in the subpoena, or has refused to answer questions propounded to him or her in the course of the investigation or hearing.

(c) If the witness named in the subpoena does not reside or conduct business in this state, the department head may seek to compel the witness' testimony and production, inspection, and copying of documents or other items described in subdivision (e) of Section 11181 in the manner provided for the enforcement of a deposition notice to a nonparty as described in Section 2026.010 or 2027.010 of the Code of Civil Procedure or in any other manner authorized by any law.

(d) If any witness objects and based on that objection refuses to answer any interrogatory or to attend or testify or produce or permit the inspection or copying of any papers or other items described in subdivision (e) of Section 11181 as required by a subpoena, the witness shall state the objection and the validity of the objection shall be determined exclusively in a proceeding brought by the head of the department to compel compliance as provided in this section.

(Amended by Stats. 2004, Ch. 182, Sec. 40. Effective January 1, 2005. Operative July 1, 2005, by Sec. 64 of Ch. 182.)

11188. Upon the filing of the petition the court shall enter an order directing the person to appear before the court at a specified time and place and then and there show cause why the person has not attended, testified, answered interrogatories, or produced or permitted the inspection or copying of the papers or other items described in subdivision (e) of Section 11181 as required. A copy of the order shall be served upon the person in the manner provided for the service of a summons described in Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure. If it appears to the court that the subpoena was regularly issued, or the interrogatories were regularly promulgated, by the head of the department, the court shall enter an order that the person appear before the officer named in the subpoena at the time and place fixed in the order and testify or produce and permit the inspection and copying of the required papers or other items described in subdivision (e) of Section 11181 as required or answer the interrogatories without objection. At the request of the department head, the court may issue any additional order to aid the implementation of the order enforcing compliance with the subpoena, including the issuance of a commission or letters rogatory in the manner provided for the enforcement of a deposition notice to a nonparty as described in Section 2026.010 or 2027.010 of the Code of Civil Procedure. Upon failure to obey the order, the person shall be dealt with as for contempt of court.

(Amended by Stats. 2023, Ch. 131, Sec. 73. (AB 1754) Effective January 1, 2024.)

11189. In any matter pending before a department head, the department head may cause the deposition of persons residing within or without the state to be taken by causing a petition to be filed in the Superior Court in the County of Sacramento reciting the nature of the matter pending, the name and residence of the person whose testimony is desired, and asking that an order be made requiring the person to appear and testify before an officer named in the petition for that purpose. Upon the filing of the petition the court may make an order requiring the person to appear and testify in the manner prescribed by law for like depositions in civil actions in the superior courts of this state under Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure. In the same manner the superior courts may compel the attendance of persons as witnesses, and the production of papers, books, accounts, and documents, under Chapter 2 (commencing with Section 1985) of Title 3 of Part 4 of the Code of Civil Procedure, and may punish for contempt.

(Amended by Stats. 2004, Ch. 182, Sec. 41. Effective January 1, 2005. Operative July 1, 2005, by Sec. 64 of Ch. 182.)

11190. Any party to any departmental hearing has the right to the attendance of witnesses in his behalf at the hearing or upon deposition upon making request therefor to the head of the department, designating the persons sought to be subpoenaed, and depositing with the officer before whom the hearing is to be had the necessary fees and mileage.

(Added by Stats. 1945, Ch. 111.)

11191. Each witness, other than an officer or employee of the State or of a political subdivision of the State, who appears by order of the head of a department shall receive for his attendance the same fees and all witnesses shall receive the same mileage allowed by law to a witness in civil cases. The amounts shall be paid by the party at whose request the witness is subpoenaed. The mileage, and fees, if any, of a witness subpoenaed by the head of a department, but not at the request of a party, shall be paid from the funds appropriated for the use of the department in the same manner as other expenses of the department are paid.

(Added by Stats. 1945, Ch. 111.)