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AB-2324 Oath of office: health officers. (2021-2022)

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Date Published: 07/21/2022 02:00 PM

Assembly Bill No. 2324

CHAPTER 124

An act to amend Section 1363 of the Government Code, relating to public employment.

[Approved by Governor July 19, 2022. Filed with Secretary of State July 19, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2324, Irwin. Oath of office: health officers.

The California Constitution requires members of the Legislature, and all public officers and employees, to take and subscribe a specified oath of office or affirmation. The California Constitution permits inferior officers and employees to be exempted by law from this requirement. Existing law, in the case of particular officers, requires the oath, after being administered, to be filed in designated offices.

This bill would require a health officer, as specified, in addition to their existing filing duties, to file their oath in the office of the Secretary of State. Because this bill would impose new duties on local officials, this bill would impose a state-mandated local program.

Violating an oath or affirmation is a crime. Because this bill would expand the scope of an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1363 of the Government Code, as amended by Section 136 of Chapter 615 of the Statutes of 2021, is amended to read:

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.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 3. The Legislature finds and declares that requiring local health officers to file their oath in the Office of the Secretary of State is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Section 1 of this act amending Section 1363 of the Government Code applies to all cities, including charter cities.