

Assembly Bill No. 630

Passed the Assembly August 24, 2015

Chief Clerk of the Assembly

Passed the Senate August 20, 2015

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2015, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 1363, 3105, and 24102 of the Government Code, relating to public employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 630, Linder. Public officers and employees: oath of office.

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 authorize a county board of supervisors to require a new oath or affirmation to be filed within 10 days of a legal change in name, delegated authority, or department by an officer or department head of that county. The bill would authorize the county to maintain a record, subject to disclosure under the California Public Records Act, of each person so required to file a new oath of office, indicating whether or not the person has complied. The bill would specify that failure to comply with this requirement for a new oath or affirmation is not punishable as a crime. This bill would specify that the powers of an appointed officer of a county are no longer granted upon the officer's departure from office, and would authorize a county board of supervisors to 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.

Existing law requires the oath or affirmation of disaster service workers to be filed in designated offices.

This bill would authorize a county board of supervisors to require a new oath or affirmation to be filed within 10 days of a change in legal name by a disaster service worker of that county. The bill would authorize the county to maintain a record, subject to disclosure under the California Public Records Act, of each person so required to file a new oath of office, indicating whether or not the person has complied. The bill would specify that failure to

comply with this requirement for a new oath or affirmation is not punishable as a crime.

Existing law requires the written appointment of a deputy of a county official to be filed as specified.

This bill would authorize a county board of supervisors to require a new appointment to be filed within 10 days of a legal change in name, delegated authority, or department by an appointed deputy of that county. The bill would authorize the county to maintain a record, subject to disclosure under the California Public Records Act, of each person so required to file a new oath of office, indicating whether or not the person has complied.

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 no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 1363 of the Government Code 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 his or her official oath, signed with his or her own proper signature, in the

office of the Secretary of State as soon as he or she has taken and subscribed his or her 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) (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 his or her 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 (Chapter 3.5 (commencing with Section 6250) of Division 7).

(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.

(c) 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.

(d) 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. Section 3105 of the Government Code is amended to read:

3105. (a) The oath or affirmation of any disaster service worker of the state shall be filed as prescribed by State Personnel Board rule within 30 days of the date on which it is taken and subscribed.

(b) The oath or affirmation of any disaster service worker of any county shall be filed in the office of the county clerk of the

county or in the official department personnel file of the county employee who is designated as a disaster service worker.

(c) The oath or affirmation of any disaster service worker of any city shall be filed in the office of the city clerk of the city.

(d) The oath or affirmation of any disaster service worker of any other public agency, including any district, shall be filed with any officer or employee of the agency that may be designated by the agency.

(e) (1) In its discretion, the board of supervisors of a county may require every disaster service worker of that county who legally changes his or her name, within 10 days from the date of the change, to file a new oath or affirmation 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 (Chapter 3.5 (commencing with Section 6250) of Division 7).

(2) Notwithstanding any other law, including, but not limited to, Sections 3108 and 3109, failure of a disaster service worker to file a new oath of office required by the board of supervisors pursuant to this subdivision shall not be punishable as a crime.

(f) The oath or affirmation of any disaster service worker may be destroyed without duplication five years after the termination of the disaster service worker's service or, in the case of a public employee, five years after the termination of the employee's employment.

SEC. 3. Section 24102 of the Government Code is amended to read:

24102. (a) An appointee shall not act as deputy until:

(1) A written appointment by the deputy's principal is filed with the county clerk.

(2) A copy of the appointment is filed with the county auditor, if the auditor has so requested.

(3) The deputy has taken the oath of office.

(b) In its discretion, the board of supervisors of a county may require every appointed deputy of that county who legally changes his or her name, delegated authority, or department, within 10 days from the date of the change, to file a new appointment 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 subdivision is a public record subject to disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1).

(c) A revocation of the appointment of any deputy shall be made and filed in the same manner as the appointment.

(d) Five years after the date of revocation of appointment of a deputy, the written oath of office subscribed to by such deputy may be destroyed and no reproduction thereof need be made or preserved.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because 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.

Approved _____, 2015

Governor