

AMENDED IN ASSEMBLY APRIL 1, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2729**

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**Introduced by Assembly Member Leno**

February 20, 2004

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An act to amend ~~Section 68750~~ *Sections 68750 and 68753* of the Government Code, relating to the Commission on Judicial Performance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2729, as amended, Leno. Commission on Judicial Performance.

Existing law specifies the authority of the Commission on Judicial Performance to conduct investigations and formal proceedings, including, the power to administer oaths, order the inspection of books and records, ~~and~~ compel the attendance of witnesses and the production of testimony, *and order the taking of a deposition.*

This bill would additionally authorize the commission to take testimony, *and would require an order for the taking of a deposition to issue only upon a showing by the party requesting the deposition that the proposed deponent is a material witness and there is good cause for taking the deposition.*

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

1 SECTION 1. Section 68750 of the Government Code is  
2 amended to read:

3 68750. (a) In the conduct of investigations and formal  
4 proceedings, the commission or the masters may do any of the  
5 following:

6 (1) Administer oaths.

7 (2) Take testimony.

8 (3) Order and otherwise provide for the inspection of books and  
9 records.

10 (4) Issue subpoenas for the attendance of witnesses and the  
11 production of papers, books, accounts, documents and testimony  
12 relevant to any such investigation or formal proceeding.

13 (b) The power to administer oaths, to issue subpoenas, or to  
14 make orders for or concerning the inspection of books and records  
15 may be exercised by a member of the commission or a master,  
16 unless the commission shall otherwise determine.

17 SEC. 2. Section 68753 of the Government Code is amended to  
18 read:

19 68753. In any pending investigation or formal proceeding, the  
20 commission or the masters may order the deposition of a person  
21 residing within or without the state to be taken in ~~such~~ *the* form and  
22 subject to ~~such~~ any limitations as may be prescribed in the order.  
23 *The order shall issue upon a showing by the party requesting the*  
24 *deposition that the proposed deponent is a material witness and*  
25 *there is good cause for taking the deposition.* If the judge and  
26 counsel for the commission do not stipulate as to the manner of  
27 taking the deposition, either the judge or counsel may file in the  
28 superior court a petition entitled “In the Matter of Proceeding of  
29 Commission on Judicial Performance No. \_\_\_\_\_ (state  
30 number),” and stating generally, without identifying the judge, the  
31 nature of the pending matter, the name and residence of the person  
32 whose testimony is desired, and, directions, if any, of the  
33 commission or masters, asking that an order be made requiring that  
34 person to appear and testify before a designated officer. Upon the  
35 filing of the petition, the court may make an order requiring that  
36 person to appear and testify. A subpoena for the deposition shall  
37 be issued by the clerk and the deposition shall be taken and  
38 returned, in the manner prescribed by law for depositions in civil



1 actions. If the deposition is that of a person residing or present  
2 within this state, the petition shall be filed in the superior court of  
3 the county in which the person resides or is present; otherwise in  
4 the superior court of any county in which the commission  
5 maintains an office.

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