

AMENDED IN ASSEMBLY MAY 11, 2004

AMENDED IN ASSEMBLY APRIL 1, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2729

Introduced by Assembly Member Leno

February 20, 2004

An act to amend 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, 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 *in a formal proceeding* 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~~ *the* 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
18 to read:

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



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

7 *(b) The Legislature hereby encourages the Commission on*
8 *Judicial Performance to adopt rules pursuant to this section and*
9 *Section 68750.*

10 *(c) The provisions of this section are severable. If any provision*
11 *of this section or its application is held invalid, that invalidity does*
12 *not affect other provisions or applications that can be given effect*
13 *without the invalid provision or application.*

