

Date of Hearing: March 23, 2022

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 2324 (Irwin) – As Introduced February 16, 2022

SUBJECT: Oath of office: health officers.

SUMMARY: Requires county health officers to file their oath of office with the Secretary of state.

EXISTING LAW:

- 1) Provides that unless otherwise provided, following the election or appointment and before any officer enters on the duties of his or her office, the officer shall take and subscribe the oath or affirmation set forth in the California Constitution.
- 2) Requires, unless otherwise provided, every oath of office certified by the officer before whom it was taken to be filed within the time required as follows:
 - a) The oath of all officers whose authority is not limited to any particular county, in the office of the Secretary of State.
 - b) The oath of all officers elected or appointed for any county, and 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.
 - c) 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.
 - d) The oath of all officers for any independent special district in the office of the clerk or secretary of that district.
- 3) Specifies that 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.
- 4) Provides that notwithstanding any other law, 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 2) above shall not be punishable as a crime.
- 5) Requires every oath of office filed with the Secretary of State to 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.

FISCAL EFFECT: This bill is keyed fiscal and contains a state mandated local program.

COMMENTS:

1) **Oaths of Office.** Current law requires candidates for elected office to take the oath of office prescribed by Article XX, Section 3 of the California Constitution at the time they file their candidacy for a primary, general, or final election (Elections Code §200). Article XX, Section 3 of the California Constitution and Government Code §1360 also require all public officers and employees to take the oath of office before entering the duties of their office.

2) **Apostille.** An Apostille is an authentication of public official signatures on documents to be used outside the United States of America. Some countries will recognize a birth certificate or other type of official document only if it is authenticated by the Secretary of State in which the document was issued. An Apostille certifies the following:

a) The authenticity of the signature of the public official who signed the document.

b) The capacity in which that public official acted.

c) When appropriate, the identity of the seal or stamp which the document bears, e.g. a notary public seal.

1) **Bill Summary and Author's Statement.** This bill requires county health officers to file their oath of office with the Secretary of State. The Author is the sponsor of this bill.

According to the author, "AB 2324 will eliminate unnecessary bureaucracy for Californians seeking to certify government documents for use outside of the United States of America. Currently, Californians must receive an Apostille certification that authenticates the signature of a public official on government documents, such as birth, death, and marriage certificates, prior to using these documents abroad. The Secretary of State can only authenticate documents signed by officials whose oaths are filed with their office. Current law does not require public health officers to file their oaths with the Secretary of State, causing a problem as many birth, death, and marriage certificates are signed by public health officers.

"As a result, the office of the Secretary of State has reported that health officer signatures are the cause of 25% of their Apostille rejections. In these instances, individuals needing an Apostille must go through additional bureaucratic hurdles to certify the public health officer's signature through the County of origin, prior to then returning to the Secretary of State's office for their Apostille certification.

"Instead, AB 2324 will streamline the Apostille certification process by requiring health officers to file their oaths in the office of the Secretary of State, ensuring that Californians are able to certify their documents in a timely and efficient manner."

2) **Previous Legislation.** AB 630 (Linder, Chapter 365, Statutes of 2015), authorized 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, and allowed a county to maintain a record of each person required to file a new oath of office, indicating whether or not the person has complied.

3) **Arguments in Support.** According to the Health Officers Association of California, “In California, the local health officer is the registrar of births and deaths. This means their signature appears on birth and death certificates. By filing an oath of office, their signature will be able to be verified by the Secretary of State. Passage of this bill would mean that requests for birth and death certificates that come from out of the country can be reviewed at the state level, rather than at the local health department. This is the appropriate level of review for international requests. In addition, this will save administrative load on local health departments, which, as we have seen during the COVID-19 pandemic, have been under resourced for decades. AB 2324 is a bill to increase efficiency, help local health departments, and make it easier for those in need to receive vital documentation.”

4) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

Health Officers Association of California

Opposition

None on file

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