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An act to amend Section 13293 of, and to add Sections 13293.1, 13293.3,  
and 13293.5 to, the Government Code, relating to state government.



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

SECTION 1. Section 13293 of the Government Code is amended to read:

13293. The department ~~may~~ shall have access and authority to examine all records, files, documents, ~~accounts~~ accounts, reports, correspondence, and all financial affairs of every agency ~~mentioned in Section 13300.~~ of the state permitted or charged by law with the handling of public money or its equivalent. It may enter any public office or institution in this state and ~~examine~~ access, examine, and reproduce any records, files, books, ~~papers~~ papers, accounts, reports, correspondence, or documents contained therein or belonging thereto for the purpose of making such examination, and shall have access, in the presence of the custodian or his deputy, to the cash drawers and cash in the custody of such agency.

During business hours the department may examine the public accounts in any depository which has public funds in its custody.

SEC. 2. Section 13293.1 is added to the Government Code, to read:

13293.1. (a) No law providing for the confidentiality of any records or property shall prevent disclosure of information or documents obtained in connection with any audit, evaluation, investigation, or review conducted by the department unless the provision specifically refers to and precludes access, examination, and reproduction pursuant to Section 13293. Information or documents obtained in connection with any audit, evaluation, investigation, or review conducted by the department are subject to any limitations on release of the information or documents as may apply to an employee or officer of the state or local governmental agency or publicly created entity that provided the information or documents to the department. Providing confidential



information to the department pursuant to this section, including, but not limited to, confidential information that is subject to a privilege, shall not constitute a waiver of that privilege.

(b) Any person who fails or refuses to permit access, examination, or reproduction of records or property as required by this section and Section 13293, is guilty of a misdemeanor.

(c) For purposes of this section, "confidentiality of records or property" means that the record or property may lawfully be kept confidential as a result of a statutory or common law privilege or any other provision of law.

(d) Any information or documents obtained in connection with an audit, evaluation, investigation, or review conducted by the department may be kept confidential and disclosure of the information or documents will not be required under the California Public Records Act if the department determines that nondisclosure would protect a person from potential retaliation or fear of retaliation for participating in the audit, evaluation, investigation, or review.

SEC. 3. Section 13293.3 is added to the Government Code, to read:

13293.3. (a) In connection with any audit, evaluation, investigation, or review conducted by the department, the department or a department designee may issue subpoenas for the attendance of witnesses and the production of records, files, documents, accounts, reports, or correspondence, or for making of oral or written sworn statements, in any interview conducted as part of an audit, evaluation, investigation, or review.



(b) A subpoena issued under this section extends as process to all parts of the state and may be served by any person authorized to serve process of courts of record or by any person designated for that purpose by the department. The person serving this process may receive compensation as allowed by the department, not to exceed the fees prescribed by law for similar service.

(c) Notwithstanding Section 7470, 7474, or 7491, subpoenas issued under this section for financial records of financial institutions concerning customers of financial institutions or for information contained in those records shall not be subject to the requirement or conditions of Section 7474.

SEC. 4. Section 13293.5 is added to the Government Code, to read:

13293.5. It is a misdemeanor, punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine to do any of the following:

(a) Fail or refuse to permit the examination of, access to, or reproduction of the records, files, documents, accounts, reports, correspondence, cash drawers, or cash of his or her office by the department or in any way interferes with such examination conducted pursuant to Section 13293.

(b) Manipulate, correct, alter, or changes records, documents, accounts, reports, or correspondence prior to or during any audit, evaluation, investigation, or review conducted pursuant to Section 13293.

(c) Distribute, reproduce, release, or fail to safeguard confidential draft documents exchanged between the department and the entity subject to the audit, evaluation,



investigation, or review conducted pursuant to Section 13293 prior to the release of the department's final report, without the department's express permission.

SEC. 5. The Legislature finds and declares that Section 2 of this act, which adds Section 13293.1 to the Government Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

The need for the Department of Finance to fully examine and evaluate records, files, documents, accounts, reports, correspondence, and all financial affairs of every agency of the state permitted or charged by law to handle public money outweighs the interest in public disclosure of information obtained by the department in connection with its activities.

SEC. 6. 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.



## LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, \_\_\_\_\_.

General Subject: Department of Finance: audits.

Existing law authorizes the Department of Finance to examine all records, files, documents, accounts, and all financial affairs of every agency of the state permitted or charged by law with the handling of public money or its equivalent and to enter any public office or institution in this state and examine any records, files, books, papers, or documents contained therein or belonging thereto for the purpose of making such examination.

This bill would instead require the department to have access and authority to make these examinations that shall also include all reports and correspondence. The bill would specify that the department may access, examine, and reproduce any records, files, books, papers, accounts, reports, and correspondence. The bill would provide that any information or documents obtained in connection with an audit, evaluation, investigation, or review conducted by the department may be kept confidential, and



that disclosure of the information or documents will not be required under the California Public Records Act if the department makes a specified determination. The bill would authorize the department, in connection with any audit, evaluation, investigation, or review it conducts to issue subpoenas for the attendance of witnesses and the production of records, or for making of oral or written sworn statements, as specified. The bill would also make it a crime to engage in specified activity with regard to an audit, evaluation, investigation, or review conducted pursuant to these provisions, including manipulating, correcting, altering, or changing records, documents, accounts, reports, or correspondence prior to, or during any audit, and distributing, reproducing, releasing, or failing to safeguard confidential draft documents exchanged between the department and the entity subject to the audit, prior to the release of the department's final report, as specified. Because the bill would create a new crime, the bill would impose a state-mandated local program.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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.



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



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