

AMENDED IN SENATE MARCH 29, 2005

SENATE BILL

No. 416

Introduced by Senator Ackerman

February 17, 2005

An act to amend ~~Sections 904.6 and 939~~ *Section 904.6* of the Penal Code, relating to grand juries.

LEGISLATIVE COUNSEL'S DIGEST

SB 416, as amended, Ackerman. Grand juries.

Existing law authorizes the presiding judge of the superior court in any county or city and county to empanel an additional grand jury, as specified.

This bill would instead ~~require~~ *provide that* the presiding judge or the judge appointed by the presiding judge to supervise the grand jury ~~to may~~ empanel an additional grand jury upon the request of the Attorney General or the District Attorney.

~~By imposing additional burdens on local governments in connection with the grand jury, this bill would impose a state-mandated local program.~~

~~Existing law provides that no person, except for those who are authorized, may be present during the criminal sessions of the grand jury, as specified.~~

~~This bill would additionally authorize an investigating officer or the person designated by the Attorney General or the district attorney to assist in the presentation of the case to be present during the criminal sessions of the grand jury.~~

~~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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

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

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

1 SECTION 1. Section 904.6 of the Penal Code is amended to
2 read:

3 904.6. (a) In any county or city and county, the presiding
4 judge of the superior court, or the judge appointed by the
5 presiding judge to supervise the grand jury, ~~shall~~ *may*, upon the
6 request of the Attorney General or the district attorney *or upon*
7 *his or her own motion*, order and direct the impanelment, of one
8 additional grand jury pursuant to this section.

9 (b) The presiding judge or the judge appointed by the
10 presiding judge to supervise the grand jury shall select persons, at
11 random, from the list of trial jurors in civil and criminal cases
12 and shall examine them to determine if they are competent to
13 serve as grand jurors. When a sufficient number of competent
14 persons have been selected, they shall constitute the additional
15 grand jury.

16 (c) Any additional grand jury which is impaneled pursuant to
17 this section may serve for a period of one year from the date of
18 impanelment, but may be discharged at any time within the
19 one-year period by order of the presiding judge *or the judge*
20 *appointed by the presiding judge to supervise the grand jury*. In
21 no event shall more than one additional grand jury be impaneled
22 pursuant to this section at the same time.

23 (d) Whenever an additional grand jury is impaneled pursuant
24 to this section, it may inquire into any matters which are subject
25 to grand jury inquiry and shall have the sole and exclusive
26 jurisdiction to return indictments, except for any matters which
27 the regular grand jury is inquiring into at the time of its
28 impanelment.

29 (e) It is the intent of the Legislature that all persons qualified
30 for jury service shall have an equal opportunity to be considered
31 for service as criminal grand jurors in the county in which they

1 reside, and that they have an obligation to serve, when
2 summoned for that purpose. All persons selected for the
3 additional criminal grand jury shall be selected at random from a
4 source or sources reasonably representative of a cross section of
5 the population which is eligible for jury service in the county.

6 ~~SEC. 2. Section 939 of the Penal Code is amended to read:~~

7 ~~939. No person other than those specified in Article 3~~
8 ~~(commencing with Section 934), and in Sections 939.1, 939.11,~~
9 ~~and 939.21, an investigating officer or other person designated by~~
10 ~~the Attorney General or the district attorney to assist in the~~
11 ~~prosecution of the case, and the officer having custody of a~~
12 ~~prisoner witness while the prisoner is testifying, is permitted to~~
13 ~~be present during the criminal sessions of the grand jury except~~
14 ~~the members and witnesses actually under examination.~~
15 ~~Members of the grand jury who have been excused pursuant to~~
16 ~~Section 939.5 shall not be present during any part of these~~
17 ~~proceedings. No persons other than grand jurors shall be~~
18 ~~permitted to be present during the expression of the opinions of~~
19 ~~the grand jurors, or the giving of their votes, on any criminal or~~
20 ~~civil matter before them.~~

21 ~~SEC. 3. If the Commission on State Mandates determines that~~
22 ~~this act contains costs mandated by the state, reimbursement to~~
23 ~~local agencies and school districts for those costs shall be made~~
24 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
25 ~~4 of Title 2 of the Government Code.~~

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