

ASSEMBLY BILL

No. 1763

Introduced by Assembly Member Davis

February 17, 2012

An act to amend Section 923 of the Penal Code, relating to grand jury proceedings.

LEGISLATIVE COUNSEL'S DIGEST

AB 1763, as introduced, Davis. Grand jury proceedings: Attorney General: powers and duties.

Existing law authorizes the Attorney General to convene the grand jury to investigate and consider certain criminal matters. The Attorney General is authorized to take full charge of the presentation of the matters to the grand jury, issue subpoenas, prepare indictments, and do all other things incident thereto to the same extent as the district attorney may do.

This bill would provide that when the grand jury is convened by the Attorney General, the Attorney General is required to take full charge of the presentation of the matters to the grand jury, issue subpoenas, prepare indictments, and do all other things incident thereto to the same extent as the district attorney may do.

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

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

1 SECTION 1. Section 923 of the Penal Code is amended to
2 read:

1 923. (a) Whenever the Attorney General considers that the
2 public interest requires, he or she may, with or without the
3 concurrence of the district attorney, direct the grand jury to convene
4 for the investigation and consideration of those matters of a
5 criminal nature that he or she desires to submit to it. He or she ~~may~~
6 *shall* take full charge of the presentation of the matters to the grand
7 jury, issue subpoenas, prepare indictments, and do all other things
8 incident thereto to the same extent as the district attorney may do.

9 (b) Whenever the Attorney General considers that the public
10 interest requires, he or she may, with or without the concurrence
11 of the district attorney, petition the court to impanel a special grand
12 jury to investigate, consider, or issue indictments for any of the
13 activities subject to fine, imprisonment, or asset forfeiture under
14 Section 14107 of the Welfare and Institutions Code. He or she
15 may take full charge of the presentation of the matters to the grand
16 jury, issue subpoenas, prepare indictments, and do all other things
17 incident thereto to the same extent as the district attorney may do.
18 If the evidence presented to the grand jury shows the commission
19 of an offense or offenses for which jurisdiction would be in a
20 county other than the county where the grand jury is impaneled,
21 the Attorney General, with or without the concurrence of the
22 district attorney in the county with jurisdiction over the offense or
23 offenses, may petition the court to impanel a special grand jury in
24 that county. Notwithstanding any other provision of law, upon
25 request of the Attorney General, a grand jury convened by the
26 Attorney General pursuant to this subdivision may submit
27 confidential information obtained by that grand jury, including,
28 but not limited to documents and testimony, to a second grand jury
29 that has been impaneled at the request of the Attorney General
30 pursuant to this subdivision in any other county where venue for
31 an offense or offenses shown by evidence presented to the first
32 grand jury is proper. All confidentiality provisions governing
33 information, testimony, and evidence presented to a grand jury
34 shall be applicable except as expressly permitted by this
35 subdivision. The Attorney General shall inform the grand jury that
36 transmits confidential information and the grand jury that receives
37 confidential information of any exculpatory evidence, as required
38 by Section 939.71. The grand jury that transmits information to
39 another grand jury shall include the exculpatory evidence disclosed
40 by the Attorney General in the transmission of the confidential

1 information. The Attorney General shall inform both the grand
2 jury transmitting the confidential information and the grand jury
3 receiving that information of their duties under Section 939.7. A
4 special grand jury convened pursuant to this subdivision shall be
5 in addition to the other grand juries authorized by this chapter or
6 Chapter 2 (commencing with Section 893).

7 (c) Upon certification by the Attorney General, a statement of
8 the costs directly related to the impanelment and activities of the
9 grand jury pursuant to subdivision (b) from the presiding judge of
10 the superior court where the grand jury was impaneled shall be
11 submitted for state reimbursement of the costs to the county.

O