

AMENDED IN ASSEMBLY JUNE 24, 2010

AMENDED IN SENATE MAY 25, 2010

AMENDED IN SENATE MAY 6, 2010

AMENDED IN SENATE APRIL 27, 2010

SENATE BILL

No. 1168

Introduced by Senator Cedillo

February 18, 2010

An act to amend, repeal, and add Sections 937 and 939.2 of, and to add and repeal Sections 904.9 and 923.1 of, the Penal Code, relating to grand juries.

LEGISLATIVE COUNSEL'S DIGEST

SB 1168, as amended, Cedillo. Los Angeles: misdemeanor criminal grand jury authority.

(1) Existing law provides for the impaneling in each county of a grand jury which is generally charged and sworn to inquire into public offenses committed or triable within the county and to investigate or inquire into county matters of civil concern, as specified. Existing law authorizes the presiding judge in any county or city and county, or the judge appointed by the presiding judge to supervise the grand jury, to impanel an additional grand jury upon the request of the Attorney General or the district attorney or upon his or her own motion. Existing law authorizes the presiding judge of the ~~superior court~~ *Superior Court* of the County of Los Angeles, or the judge appointed by the presiding judge, to supervise the grand jury, to impanel up to 2 additional grand juries, in accordance with specified procedures.

This bill would provide, until January 1, 2014, that the presiding judge of the superior court, or the judge appointed by the presiding judge to

supervise the grand jury, may, upon the request of the prosecuting city attorney of any city within the County of Los Angeles having a population in excess of 3,000,000 people, order and direct the impanelment of one additional grand jury, in accordance with specified procedures, which may inquire only into matters *not under inquiry by the regular grand jury* involving environmental, consumer protection, workplace safety, labor, fraud, ~~or corruption~~ *hate crime, or discrimination* violations ~~not under inquiry by the regular grand jury~~, and which would have no jurisdiction to return indictments.

This bill would, until January 1, 2014, authorize the prosecuting city attorney to direct this grand jury to convene for the investigation and consideration of those matters involving environmental, consumer protection, workplace safety, labor, fraud, ~~or corruption~~ *hate crime, or discrimination* violations that he or she desires to submit to it, and to take full charge of the presentation of the matters to the grand jury, issue subpoenas, and do all other things incident thereto to the same extent as the Attorney General or district attorney may do, except that the prosecuting city attorney may not prepare indictments. The bill would also provide that a statement of the costs directly related to the impanelment and activities of the grand jury from the presiding judge of the superior court where the grand jury was impaneled that has been certified by the prosecuting attorney shall be submitted to the prosecuting city attorney for reimbursement of the costs to the county and court out of the prosecuting city attorney's own budget.

(2) Existing law provides that the grand jury or district attorney may require by subpoena the attendance of any person before the grand jury as interpreter, as specified, and the compensation for the interpreter's services constitutes a charge against the county.

This bill would, until January 1, 2014, provide that the prosecuting city attorney of any city within the County of Los Angeles having a population in excess of 3,000,000 people may also require the services of an interpreter and in that case the compensation for the interpreter's services constitutes a charge against the city.

(3) Existing law provides that a subpoena requiring the attendance of a witness before the grand jury may be signed and issued by the district attorney, the district attorney's investigator, or, upon request of the grand jury, by any judge of the superior court, for witnesses in the state in support of the prosecution, for those witnesses whose testimony in the judge's opinion is material in an investigation before the grand

jury, and for any other witnesses as the grand jury, upon an investigation pending before them, may direct.

This bill would, until January 1, 2014, provide that a subpoena requiring the attendance of a witness before the grand jury may also be signed and issued by the prosecuting city attorney of any city within the County of Los Angeles having a population in excess of 3,000,000 people, or by an investigator of a district attorney or prosecuting city attorney, as applicable.

(4) By imposing new requirements relating to grand juries, which are county charges, this bill would impose a state-mandated local program.

(5) 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.

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

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

1 SECTION 1. Section 904.9 is added to the Penal Code, to read:
2 904.9. (a) Notwithstanding subdivision (a) of Section 904.6,
3 Section 904.8, or any other provision, in the County of Los
4 Angeles, the presiding judge of the superior court, or the judge
5 appointed by the presiding judge to supervise the grand jury, may,
6 upon the request of the prosecuting city attorney of any city within
7 the County of Los Angeles having a population in excess of
8 3,000,000 people, order and direct the impanelment of one
9 additional grand jury pursuant to this section.

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

16 (c) Any additional grand jury that is impaneled pursuant to this
17 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

1 appointed by the presiding judge to supervise the grand jury. In
2 no event shall more than one additional grand jury be impaneled
3 pursuant to this section at one time.

4 (d) Whenever an additional grand jury is impaneled pursuant
5 to this section, it may inquire only into misdemeanor offenses
6 involving environmental, consumer protection, workplace safety,
7 labor, fraud, ~~or corruption~~ hate crime, or discrimination violations.
8 This additional grand jury is not authorized to inquire into any
9 matters that the regular grand jury is inquiring into at the time of
10 its impanelment and has no jurisdiction to return indictments.

11 (e) *If at any time the court determines that a grand jury*
12 *impaneled pursuant to this section is not conducting proper*
13 *investigative activity, the court may order that grand jury to be*
14 *discharged. The order of discharge shall not become effective until*
15 *10 days after the date on which it is issued and actual notice is*
16 *given to the prosecuting city attorney and to the grand jury.*

17 (e)

18 (f) It is the intent of the Legislature that all persons qualified
19 for jury service shall be considered for service as criminal grand
20 jurors in accordance with existing County of Los Angeles rules,
21 policies, and regulations.

22 (f)

23 (g) This section shall remain in effect only until January 1, 2014,
24 and as of that date is repealed, unless a later enacted statute, that
25 is enacted before January 1, 2014, deletes or extends that date.

26 SEC. 2. Section 923.1 is added to the Penal Code, to read:

27 923.1. (a) Nothing in this section shall change, alter, or modify
28 the process, impanelment, or operation of any other grand jury
29 authorized by this title.

30 (b) Whenever the prosecuting city attorney of any city within
31 the County of Los Angeles having a population in excess of
32 3,000,000 people considers that the public interest requires, he or
33 she may direct the grand jury impaneled pursuant to Section 904.9
34 to convene for the investigation and consideration of those matters
35 for which grand jury investigation and consideration is authorized
36 in subdivision (d) of Section 904.9 that he or she desires to submit
37 to it. He or she may take full charge of the presentation of the
38 matters to the grand jury, issue subpoenas, and do all other things
39 incident thereto to the same extent as the Attorney General or

1 district attorney may do, except that the prosecuting attorney may
2 not prepare indictments.

3 (c) Upon certification by the prosecuting city attorney of any
4 city within the County of Los Angeles having a population in
5 excess of 3,000,000 people, a statement of the costs directly related
6 to the impanelment and activities of the grand jury pursuant to
7 subdivision (a) or Section 904.9 from the presiding judge of the
8 superior court where the grand jury was impaneled shall be
9 submitted to the prosecuting city attorney for reimbursement of
10 the costs to the county and court out of the prosecuting city
11 attorney's own budget.

12 (d) This section shall remain in effect only until January 1, 2014,
13 and as of that date is repealed, unless a later enacted statute, that
14 is enacted before January 1, 2014, deletes or extends that date.

15 SEC. 3. Section 937 of the Penal Code is amended to read:

16 937. (a) The grand jury, district attorney, or prosecuting city
17 attorney of any city within the County of Los Angeles having a
18 population in excess of 3,000,000 people may require by subpoena
19 the attendance of any person before the grand jury as interpreter.
20 While his or her services are necessary, the interpreter may be
21 present at the examination of witnesses before the grand jury. The
22 compensation for services of the interpreter constitutes a charge
23 against the city in any case of the prosecuting city attorney, or
24 against the county in all other cases, and shall be fixed by the grand
25 jury.

26 (b) This section shall remain in effect only until January 1, 2014,
27 and as of that date is repealed, unless a later enacted statute, that
28 is enacted before January 1, 2014, deletes or extends that date.

29 SEC. 4. Section 937 is added to the Penal Code, to read:

30 937. (a) The grand jury or district attorney may require by
31 subpoena the attendance of any person before the grand jury as
32 interpreter. While his or her services are necessary, this interpreter
33 may be present at the examination of witnesses before the grand
34 jury. The compensation for services of the interpreter constitutes
35 a charge against the county, and shall be fixed by the grand jury.

36 (b) This section shall become operative on January 1, 2014.

37 SEC. 5. Section 939.2 of the Penal Code is amended to read:

38 939.2. (a) A subpoena requiring the attendance of a witness
39 before the grand jury may be signed and issued by the district
40 attorney, the district attorney's investigator, the prosecuting city

1 attorney of any city within the County of Los Angeles having a
2 population in excess of 3,000,000 people, the prosecuting city
3 attorney's investigator, or, upon request of the grand jury, by any
4 judge of the superior court, for witnesses in the state, in support
5 of the prosecution, for those witnesses whose testimony, in the
6 judge's opinion is material in an investigation before the grand
7 jury, and for any other witnesses as the grand jury, upon an
8 investigation pending before it, may direct.

9 (b) This section shall remain in effect only until January 1, 2014,
10 and as of that date is repealed, unless a later enacted statute, that
11 is enacted before January 1, 2014, deletes or extends that date.

12 SEC. 6. Section 939.2 is added to the Penal Code, to read:

13 939.2. (a) A subpoena requiring the attendance of a witness
14 before the grand jury may be signed and issued by the district
15 attorney, his or her investigator or, upon request of the grand jury,
16 by any judge of the superior court, for witnesses in the state, in
17 support of the prosecution, for those witnesses whose testimony,
18 in his or her opinion is material in an investigation before the grand
19 jury, and for other witnesses as the grand jury, upon an
20 investigation pending before it, may direct.

21 (b) This section shall become operative on January 1, 2014.

22 SEC. 7. No reimbursement is required by this act pursuant to
23 Section 6 of Article XIII B of the California Constitution because
24 this act provides for offsetting savings to local agencies or school
25 districts that result in no net costs to the local agencies or school
26 districts, within the meaning of Section 17556 of the Government
27 Code.