

AMENDED IN SENATE AUGUST 23, 2012

AMENDED IN SENATE AUGUST 6, 2012

AMENDED IN SENATE JUNE 19, 2012

AMENDED IN ASSEMBLY MAY 25, 2012

AMENDED IN ASSEMBLY APRIL 11, 2012

AMENDED IN ASSEMBLY MARCH 22, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1763

Introduced by Assembly Member Davis

February 17, 2012

An act to amend ~~Sections 781 and 923~~ *Section 830.31* of the Penal Code, relating to ~~grand jury proceedings~~; *peace officers*.

LEGISLATIVE COUNSEL'S DIGEST

AB 1763, as amended, Davis. ~~Grand jury proceedings: Attorney General: powers and duties. Peace officers: City of Los Angeles.~~

Existing law provides that an officer of the Department of General Services of the City of Los Angeles is a peace officer if he or she is designated by the general manager of the department and his or her primary duty is the enforcement of the law in or about properties owned, operated, or administered by the department or when performing necessary duties with respect to patrons, employees, and properties of the department. A peace officer designated pursuant to those provisions and authorized to carry firearms by the department is required to complete an introductory course of firearm training and requalify for

the use of firearms every 6 months, and prohibits the peace officer from carrying a firearm when he or she is not on duty.

This bill would instead provide that an officer of the Department of General Services who was transferred to the Los Angeles Police Department is a peace officer if he or she is designated by the Chief of Police of the Los Angeles Police Department, or his or her designee, and the peace officer's primary duty is the enforcement of the law in or about properties owned, operated, or administered by the City of Los Angeles or when performing necessary duties, as specified. The bill would delete the provisions requiring a peace officer designated pursuant to those provisions to requalify for the use of firearms every 6 months, and would also delete the prohibition on carrying firearms while not on duty.

~~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. Existing law authorizes the Attorney General to impanel a special grand jury to investigate, consider, or issue indictments for specified activities relating to Medi-Cal fraud.~~

~~This bill also would authorize the Attorney General to impanel a special statewide grand jury, as prescribed, for cases involving fraud or theft that occur in more than one county and were conducted by a single defendant or multiple defendants acting in concert.~~

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

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

- 1 SECTION 1. Section 830.31 of the Penal Code is amended to
- 2 read:
- 3 830.31. The following persons are peace officers whose
- 4 authority extends to any place in the state for the purpose of
- 5 performing their primary duty or when making an arrest pursuant
- 6 to Section 836 as to any public offense with respect to which there
- 7 is immediate danger to person or property, or of the escape of the
- 8 perpetrator of that offense, or pursuant to Section 8597 or 8598 of
- 9 the Government Code. These peace officers may carry firearms

1 only if authorized, and under the terms and conditions specified,
2 by their employing agency.

3 (a) A police officer of the County of Los Angeles, if the primary
4 duty of the officer is the enforcement of the law in or about
5 properties owned, operated, or administered by his or her
6 employing agency or when performing necessary duties with
7 respect to patrons, employees, and properties of his or her
8 employing agency.

9 (b) A person designated by a local agency as a park ranger and
10 regularly employed and paid in that capacity, if the primary duty
11 of the officer is the protection of park and other property of the
12 agency and the preservation of the peace therein.

13 (c) (1) A peace officer of the Department of General Services
14 of the City of Los Angeles *who was transferred to the Los Angeles*
15 *Police Department and designated by the general manager of the*
16 *department Chief of Police of the Los Angeles Police Department,*
17 *or his or her designee,* if the primary duty of the officer is the
18 enforcement of the law in or about properties owned, operated, or
19 administered by ~~his or her employing agency~~ *the City of Los*
20 *Angeles* or when performing necessary duties with respect to
21 patrons, employees, and properties of ~~his or her employing agency~~
22 *the City of Los Angeles. For purposes of this section, "properties"*
23 *means city offices, city buildings, facilities, parks, shops, yards,*
24 *and warehouses, and the areas adjacent thereto.*

25 (2) A peace officer designated pursuant to this subdivision, and
26 authorized to carry firearms by ~~his or her employing agency~~ *the*
27 *Los Angeles Police Department,* shall satisfactorily complete the
28 introductory course of firearm training required by Section 832
29 ~~and shall requalify in the use of firearms every six months.~~

30 ~~(3) Notwithstanding any other provision of law, a peace officer~~
31 ~~designated pursuant to this subdivision who is authorized to carry~~
32 ~~a firearm by his or her employing agency while on duty shall not~~
33 ~~be authorized to carry a firearm when he or she is not on duty.~~

34 (d) A housing authority patrol officer employed by the housing
35 authority of a city, district, county, or city and county or employed
36 by the police department of a city and county, if the primary duty
37 of the officer is the enforcement of the law in or about properties
38 owned, operated, or administered by his or her employing agency
39 or when performing necessary duties with respect to patrons,
40 employees, and properties of his or her employing agency.

1 SECTION 1. ~~Section 781 of the Penal Code is amended to~~
2 ~~read:~~

3 ~~781. Except as provided in Section 923, when a public offense~~
4 ~~is committed in part in one jurisdictional territory and in part in~~
5 ~~another, or the acts or effects thereof constituting or requisite to~~
6 ~~the consummation of the offense occur in two or more jurisdictional~~
7 ~~territories, the jurisdiction for the offense is in any competent court~~
8 ~~within either jurisdictional territory.~~

9 SEC. 2. ~~Section 923 of the Penal Code is amended to read:~~

10 ~~923. (a) Whenever the Attorney General considers that the~~
11 ~~public interest requires, he or she may, with or without the~~
12 ~~concurrence of the district attorney, direct the grand jury to convene~~
13 ~~for the investigation and consideration of those matters of a~~
14 ~~criminal nature that he or she desires to submit to it. He or she may~~
15 ~~take full charge of the presentation of the matters to the grand jury;~~
16 ~~issue subpoenas, prepare indictments, and do all other things~~
17 ~~incident thereto to the same extent as the district attorney may do.~~

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

proper. All confidentiality provisions governing information, testimony, and evidence presented to a grand jury shall be applicable, except as expressly permitted by this subdivision. The Attorney General shall inform the grand jury that transmits confidential information and the grand jury that receives confidential information of any exculpatory evidence, as required by Section 939.71. The grand jury that transmits information to another grand jury shall include the exculpatory evidence disclosed by the Attorney General in the transmission of the confidential information. The Attorney General shall inform both the grand jury transmitting the confidential information and the grand jury receiving that information of their duties under Section 939.7. A special grand jury convened pursuant to this subdivision shall be in addition to the other grand juries authorized by this chapter, including this section, or Chapter 2 (commencing with Section 893).

(c) Whenever the Attorney General considers that the public interest requires, he or she may, with or without the concurrence of the district attorney, impanel a special statewide grand jury to investigate, consider, or issue indictments in any matters in which there are two or more activities, in which fraud or theft is a material element, that have occurred in more than one county, and were conducted either by a single defendant or multiple defendants acting in concert.

(1) This special statewide grand jury may be impaneled in the Counties of Fresno, Los Angeles, Sacramento, San Diego, or San Francisco, at the Attorney General's discretion. When impaneling a special statewide grand jury pursuant to this subdivision, the Attorney General shall use an existing regularly impaneled criminal grand jury within the period of its regular impanelment to serve as the special statewide grand jury and make arrangements with the grand jury coordinator in the applicable county, or with the presiding judge or whoever is charged with scheduling the grand jury hearings, in order to ensure orderly coordination and use of the grand jurors' time for both regular grand jury duties and special statewide grand jury duties. Whenever the Attorney General impanels a special statewide grand jury, the prosecuting attorney representing the Attorney General shall inform the special statewide grand jury at the outset of the case that the special statewide grand

1 ~~jury is acting as a special statewide grand jury with statewide~~
2 ~~jurisdiction.~~

3 ~~(2) For special statewide grand juries impaneled pursuant to~~
4 ~~this subdivision, the Attorney General may issue subpoenas for~~
5 ~~documents and witnesses located anywhere in the state in order to~~
6 ~~obtain evidence to present to the special statewide grand jury. The~~
7 ~~special statewide grand jury may hear all evidence in the form of~~
8 ~~testimony or physical evidence presented to the special statewide~~
9 ~~grand jury, irrespective of the location of the witness or physical~~
10 ~~evidence prior to subpoena. The special statewide grand jury~~
11 ~~impaneled pursuant to this subdivision may indict a person or~~
12 ~~persons with charges for crimes that occurred in counties other~~
13 ~~than where the special statewide grand jury is impaneled. The~~
14 ~~indictment shall then be submitted to the court in any county in~~
15 ~~which any of the charges could otherwise have been properly~~
16 ~~brought. The court where the indictment is filed under this~~
17 ~~subdivision shall have proper jurisdiction over all counts in the~~
18 ~~indictment.~~

19 ~~(3) Notwithstanding Section 944, an indictment found by a~~
20 ~~special statewide grand jury convened pursuant to this subdivision~~
21 ~~and endorsed as a true bill by the special statewide grand jury~~
22 ~~foreperson, may be presented to the appropriate court, as set forth~~
23 ~~in paragraph (2), solely by the Attorney General and within five~~
24 ~~court days of the endorsement of the indictment. For indictments~~
25 ~~presented to the court in this manner, the Attorney General shall~~
26 ~~also file with the court or court clerk, at the time of presenting the~~
27 ~~indictment, an affidavit signed by the special statewide grand jury~~
28 ~~foreperson attesting that all the jurors who voted on the indictment~~
29 ~~heard all of the evidence presented by the Attorney General, and~~
30 ~~that a proper number of jurors voted for the indictment pursuant~~
31 ~~to Section 940. The Attorney General's Office shall be responsible~~
32 ~~for prosecuting an indictment produced by the special statewide~~
33 ~~grand jury.~~

34 ~~(4) If a defendant makes a timely and successful challenge to~~
35 ~~the Attorney General's right to convene a special statewide grand~~
36 ~~jury by clearly demonstrating that the charges brought are not~~
37 ~~encompassed by this subdivision, the court shall dismiss the~~
38 ~~indictment without prejudice to the Attorney General, who may~~
39 ~~bring the same or other charges against the defendant at a later~~
40 ~~date by way of another special statewide grand jury, properly~~

1 convened, or a regular grand jury, or by any other procedure
2 available.

3 (5) ~~The provisions of Section 939.71 shall apply to the special~~
4 ~~statewide grand jury.~~

5 (6) ~~Unless otherwise set forth in this section, a law applying to~~
6 ~~a regular grand jury impaneled pursuant to Section 23 of Article~~
7 ~~I of the California Constitution shall apply to a special statewide~~
8 ~~grand jury unless the application of the law to a special statewide~~
9 ~~grand jury would substantially interfere with the execution of one~~
10 ~~or more of the provisions of this section. If there is substantial~~
11 ~~interference, the provision governing the special statewide grand~~
12 ~~jury will govern.~~

13 (d) ~~Upon certification by the Attorney General, a statement of~~
14 ~~the costs directly related to the impanelment and activities of the~~
15 ~~grand jury pursuant to subdivisions (b) and (c) from the presiding~~
16 ~~judge of the superior court where the grand jury was impaneled~~
17 ~~shall be submitted for state reimbursement of the costs to the~~
18 ~~county or courts.~~