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OFFICE OF THE ATTORNEY GENERAL
State of California

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OPINION

of

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No. 81-1015

DECEMBER 29, 1981

THE HONORABLE CLAIR A. CARLSON, COUNTY COUNSEL,
COUNTY OF SANTA CRUZ, has requested an opinion on the following question:

Is a grand jury authorized to investigate the general operations of special
purpose assessing or taxing districts located wholly or partly in the county?

CONCLUSION

A grand jury is authorized to investigate the operational procedure, but not
the substantive policy concerns, of special purpose assessing or taxing districts located
wholly or partly in the county.

ANALYSIS

The present inquiry is whether a grand jury is authorized to investigate the general operations of special districts. Prior to its amendment (Stats. 1969, ch. 931, § 1) section 933.5 of the Penal Code¹ provided:

“A grand jury may at any time examine the books and records of any special-purpose assessing or taxing district located wholly or partly in the county.”

It has been held that this section was not intended to broaden the scope of grand jury investigations into matters which the grand jury was not otherwise authorized to investigate, but was enacted merely to aid the grand jury in the exercise of its already existing powers to inquire into public offenses (§ 917), official misconduct (§ 919), and other designated activities of county officers (§§ 925–929). (*Board of Trustees v. Leach* (1968) 258 Cal. App. 2d 281, 285–286; 46 Ops. Cal. Atty. Gen. 144 (1965).) In the opinion of this office, cited by the appellate court, it was concluded that a grand jury was not authorized to inquire into the personnel practices of a school district in the absence of cause to believe that officials of the district were engaged in criminal activity or misconduct in office. (*Id.*, at pp. 145–146.)

In 1969, section 933.5 was amended to add the words underscored:²

“A grand jury may at any time examine the books and records of any special-purpose assessing or taxing district located wholly or partly in the county, *and, in addition to any other investigatory powers granted by this chapter, may Investigate and report upon the method or system of performing the duties of such district.*”³

¹Hereinafter, all section references are to the Penal Code unless otherwise indicated.

²As further amended (Stats. 1979, ch. 306, 1), the section now provides:

“A grand jury may at any time examine the books and records of any special-purpose assessing or taxing district located wholly or partly in the county or the local agency formation commission in the county, and, in addition to any other investigatory power granted by this chapter, may investigate and report upon the method or system of performing the duties of such district or commission.”

³Similar language is found in section 933.1 (Stats. 1979, ch. 305, § 1) pertaining to redevelopment agencies:

“A grand jury may at any time examine the books and records of any agency as defined in Section 33100 of the Health and Safety Code, and, in addition to any other investigatory powers granted by this chapter, may investigate and report upon the method or system of performing

The sole issue presented for resolution concerns the meaning and effect of this apparent legislative response to *Board of Trustees v. Leach*, *supra*, 258 Cal. App. 2d 281. By the express terms of the amendment, i.e., “in addition to any other investigatory powers the legislature clearly expanded the authority⁴ of the grand jury with respect to special districts. Thus, the newly conferred authority is not restricted by reference to its preexisting powers. The amendatory legislation is in furtherance of the initial purpose of section 933.5 to broaden the field of public knowledge and information concerning the existence and operations of special districts. (Cf. *Board of Trustees v. Leach*, *supra*, 258 Cal. App. 2d at p. 286.)

The remaining consideration, which is the principal focus of the inquiry presented, concerns the dimension of the expanded authority, i.e., to “investigate and report upon the method or system of performing the duties” of such special districts.⁵ The term “method or system” of performance is not further defined.

We are required in the first instance to give effect to a statute according to the usual and ordinary import of its terms; such terms must be interpreted contextually and in furtherance of the nature and obvious purpose of the enactment. (*Moyer v. Workmen’s Comp. App. Bd.* (1973) 10 Cal. 3d 222, 230.) The terms “method” and “system” in common parlance connote the means used or the procedure followed in doing a given kind of work or achieving a specified objective. (Cf. Webster’s Third New Internat. Dict. (1961), p. 1423.) The terms of section 933.5 are not limited to fiscal concerns, but expressly include the method or system “of performing the duties of such district. . . .” Hence, the investigative authority of a grand jury with respect to special districts encompasses the

the duties of such agency.”

⁴The grand jury is a judicial body whose authority, except as provided by the constitution (cf. Cal. Const., art I, §§ 14, 23), is subject to legislative enactment. (*Fitts v. Superior Court* (1936) 6 Cal. 2d 230, 241; *Gillette-Harris-Duranceau & Associates, Inc. v. Kemple* (1978) 83 Cal. App. 3d 214, 221.) The grand jury has no inherent investigatory powers beyond those granted by the Legislature. (*Allen v. Payne* (1934) 1 Cal. 2d 607, *Board of Trustees v. Leach*, *supra*, 285; 46 Ops. Cal. Atty. Gen. 144, *supra*.)

⁵In 1977, former section 925, providing that “[t]he grand jury shall annually make a careful and complete examination of the accounts and records, especially those pertaining to revenue, of all the officers of the county . . .,” was repealed, and a new section 925 was added (Stats. 1977, ch. 107, § 2, 3):

“The grand jury shall investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county including those operations, accounts, and records of any special legislative district or other district in the county created pursuant to state law for which the officers of the county are serving in their ex officio capacity as officers of the districts. . . .” (Emphasis added.)

While this section pertains specifically to districts for which county officers serve in their official capacity, the scope of the present inquiry is focused on the meaning of section 933.5, pertaining to special districts generally.

operational procedure of any such district.⁶

Procedural considerations, however, are to be carefully distinguished from substantive concerns. Thus, the parameter of operational *procedure* does not extend to an inquiry as to the merit, wisdom, or expediency of substantive policy determinations which may fall within the jurisdiction and discretion of a particular district. In this regard, the reference in the inquiry presented to the “general operations” of a district may, in the absence of further specification, be overextensive. It is concluded that a grand jury is authorized to investigate the method or system of performing the duties, i.e., the operational procedure, of any special purpose assessing or taxing district located wholly or partly in the county.

⁶We have previously recognized the “civil nature” of “routine examinations” under section 933.5. (58 Ops. Cal. Atty. Gen. 241, 243 (1975).) This authority of the grand jury to exercise a “watchdog” function in matters of local government, as distinguished from its role as an indicting body, has been described as “a unique creature of the California Legislature, which has a long and well respected heritage ” (*Gillette-Harris-Duranceau & Assoc., Inc. v. Kemple, supra*, 83 Cal. App. 3d at p. 221.)