**South Carolina General Assembly**

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**H. 3767**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Herbkersman and Bowers

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Introduced in the House on March 1, 2011

Currently residing in the House Committee on **Judiciary**

Summary: Special Investigative Grand Juries Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/1/2011 House Introduced and read first time ([House Journal‑page 4](file:///h:\hj%20archive\2011\03-01-11.docx))

3/1/2011 House Referred to Committee on **Judiciary** ([House Journal‑page 4](file:///h:\hj%20archive\2011\03-01-11.docx))

**VERSIONS OF THIS BILL**

[3/1/2011](file:///p:\pprever\2011-12\3767_20110301.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 14 TO CHAPTER 7, TITLE 14 SO AS TO ENACT THE “SPECIAL INVESTIGATIVE GRAND JURIES ACT” TO AUTHORIZE CIRCUIT SOLICITORS TO APPLY FOR AN ORDER CONVENING A CIRCUIT‑WIDE SPECIAL INVESTIGATIVE GRAND JURY UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE FOR THE EMPANELMENT OF THE SPECIAL INVESTIGATIVE GRAND JURY, AND TO PROVIDE THE POWERS OF THE CIRCUIT SOLICITOR WHEN THE SPECIAL INVESTIGATIVE GRAND JURY IS CONVENED.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be cited as the “Special Investigative Grand Juries Act”.

SECTION 2. Chapter 7, Title 14 of the 1976 Code is amended by adding:

“Article 14

Special Investigative Grand Juries

Section 14‑7‑1580. (A) Notwithstanding another provision of law, when a circuit solicitor, in his discretion, has reason to believe that a special investigative grand jury would assist in the investigation and prosecution of criminal activity involving a violation of or a conspiracy to violate a criminal law as delineated in Section 14‑7‑1630 or a criminal law that carries a maximum sentence of fifteen years or more, anywhere in the Solicitor’s circuit, the Circuit Solicitor may apply to a circuit court judge for an order to have a circuit‑wide special investigative grand jury empaneled. It will remain empaneled for twelve months. The Circuit Solicitor may petition the court for an order extending the special investigative grand jury’s work for an additional six months. This extension only may be granted twice.

(B) The application must be in writing and state that a special investigative grand jury is needed to investigate criminal activity under the jurisdiction of the special investigative grand jury and the Circuit Solicitor.

(C) The special investigative grand jury has jurisdiction to investigate criminal activity throughout the circuit.

(D) Once empaneled, the special investigative grand jury may be convened at any time during its term by the Circuit Solicitor to investigate crime under its jurisdiction.

Section 14‑7‑1583. (A) The Circuit Solicitor or his designee, the alternate grand jurors, the witness under examination, and a stenographer may be present while the special investigative grand jury is in session.

(B) A circuit court judge, upon the request of the Circuit Solicitor or the grand jury, may order that an interpreter, security officers, and other persons as the judge may determine are necessary to the presentation of the evidence may be present while the special investigative grand jury is in session.

(C) All persons who are to be present while the grand jury is in session must be identified in the record, must be sworn to secrecy, and shall not disclose any information pertaining to the grand jury.

(D) No person other than the permanent grand jurors may be present during the deliberations or voting of the grand jury.

Section 14‑7‑1585. The special investigative grand jury of eighteen persons must be composed of citizens of the counties that make up the circuit. In order to empanel the grand jury, the clerks of court of the counties comprising the circuit will summon a total of one hundred citizens proportionate to each county’s percentage of the total population in the circuit. Otherwise, a special investigative grand jury convened pursuant to this article must be selected and empaneled in the same manner pursuant to the relevant provisions of Article 3 regarding the drawing and summoning of jurors in circuit courts. The grand jury panel shall report to the courthouse of the county with the largest population in the circuit. Once the special investigative grand jury is empaneled, it will be the Circuit Solicitor’s responsibility to provide a meeting place for the special investigative grand jury.

Section 14‑7‑1590. The Circuit Solicitor’s Office is responsible for all costs associated with the empanelment of the special investigative grand jury.

Section 14‑7‑1595. (A) When a special circuit investigative grand jury is convened pursuant to the provisions of this article, the Circuit Solicitor is authorized to:

(1) subpoena witnesses to give sworn testimony to a certified court reporter before the special investigative grand jury; and

(2) be present to examine witnesses before the special investigative grand jury and to give legal advice to the special investigative grand jury regarding matters before it.

(B) The finding and return of indictments and the form of an indictment returned by a special investigative grand jury convened pursuant to the provisions of this article must be in the same manner and form as indictments returned by the county or state grand jury.

(C) This article may not be construed to repeal or amend an existing statute regarding the formation, function, duties, or responsibilities of the county or state grand jury.

Section 14-7‑1598. The Clerk of Court for the most populated county in the circuit, upon the request of the Circuit Solicitor or his designee, shall issue subpoenas or subpoenas duces tecum to compel individuals, documents, or other materials to be brought from anywhere in this State to the special investigative grand jury. In addition, a special investigative grand jury may proceed in the same manner as provided by the subpoena rules of the South Carolina Rules of Civil Procedure and Sections 19‑9‑10 through 19‑9‑130, except when either is inconsistent with the provisions of this article; provided the subpoena rules of the South Carolina Rules of Civil Procedure and Sections 19‑9‑10 through 19‑9‑130 are not considered a limitation upon this section, but supplemental to it. The subpoenas and subpoenas duces tecum may be for investigative purposes and for the retention of documents or other materials so subpoenaed for proper criminal proceedings. A law enforcement officer with appropriate jurisdiction is empowered to serve these subpoenas and subpoenas duces tecum and receive these documents and other materials for return to a special investigative grand jury. A person violating a subpoena or subpoena duces tecum issued pursuant to this article, or who fails to fully answer all questions put to him before proceedings of a special investigative grand jury when the response to it is not privileged or otherwise protected by law, including the granting of immunity, may be punished by the presiding judge for contempt. When a violation or failure to answer is alleged to have occurred, the Circuit Solicitor or his designee may petition the presiding judge to compel compliance by the person alleged to have committed the violation or who has failed to answer. If the presiding judge considers compliance is warranted, he may order this compliance and may hold the individual in contempt when the compliance does not occur.”

SECTION 3. This act takes effect upon approval by the Governor.

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