

TO BE PUBLISHED IN THE OFFICIAL REPORTS

OFFICE OF THE ATTORNEY GENERAL
State of California

ROB BONTA
Attorney General

OPINION	:	
	:	
	:	No. 26-901
of	:	
	:	
	:	October 7, 2026
ROB BONTA	:	
Attorney General	:	
	:	
CATHERINE BIDART	:	
Deputy Attorney General	:	

DANIEL BOOKMAN and CONNER EVERTS seek to file a lawsuit in state court against GLORIA D. GRAY to remove her from public office on the Board of Directors of the West Basin Municipal Water District (West Basin). Filing the lawsuit requires Attorney General permission, known as “leave to sue in quo warranto.” In seeking permission, the applicants argue that Gray forfeited her West Basin office under state law, Government Code section 1099, when she became a member of the Inglewood City Council. The City of Inglewood falls within West Basin’s service area. According to the applicants, section 1099 prohibits holding office on both the West Basin Board and the Inglewood City Council because their interrelated powers create the potential for divided loyalties. Holding two incompatible offices results in forfeiture of the first-held office to safeguard loyalty to the office most recently chosen.

The proposed lawsuit meets all three of the Attorney General’s criteria to grant leave to sue: it is correctly brought through the quo warranto process, it raises a substantial legal issue warranting judicial resolution, and such resolution would serve the public interest. Consequently, we GRANT leave to sue.

BACKGROUND

We begin by explaining what it means to apply to the Attorney General for leave to sue in quo warranto. “Quo warranto” means “by what authority,” and was the name of

the legal process used by English monarchs to challenge a royal subject's claim to a franchise or office supposedly granted by the Crown.¹ As relevant here, the term now refers to the legal process to challenge the right or eligibility to a public office.² This process is governed by state law set forth in Code of Civil Procedure sections 803 through 811, in a chapter titled "Actions for the Usurpation of an Office or Franchise."³ The code does not use the term quo warranto, but courts and lawyers still use it for convenience.⁴

A person or entity who wishes to sue in quo warranto must serve the proposed defendant with a copy of the application for permission to sue, and must submit the application to the Attorney General, who determines whether the proposed lawsuit may proceed to court.⁵ The application before us includes a document formally giving notice of the application to the proposed defendant (Gray), a supporting memorandum, a verified statement of supporting facts, a verified complaint to be filed in court if leave to sue is granted, and proof of service (that is, a document showing Gray was given a copy of the application papers).⁶ Gray submitted a Response, verified by her attorney, and a Statement of Facts, verified by Gray.⁷ In her Response, Gray disputes whether the applicants satisfied service requirements. But it appears that service was proper.⁸

¹ California Attorney General's Office, Quo Warranto (1990), p. 1, https://oag.ca.gov/sites/all/files/agweb/pdfs/ag_opinions/quo-warranto-guidelines.pdf (as of Oct. 6, 2026); *Internat. Assn. of Fire Fighters v. City of Oakland* (1985) 174 Cal.App.3d 687, 695-696.

² California Attorney General's Office, Quo Warranto, *supra*, at p. 3; see Code Civ. Proc., § 803; *Nicolopoulos v. City of Lawndale* (2001) 91 Cal.App.4th 1221, 1225-1226.

³ Code Civ. Proc., §§ 803-811.

⁴ *People ex rel. Internat. Assn. of Firefighters, etc. v. City of Palo Alto* (2024) 102 Cal.App.5th 602, 618, fn. 5.

⁵ *Id.* at pp. 619 ("The gatekeeping role of the Attorney General is intentional. . . . [T]he Attorney General is the proper one to determine, in the first instance, when the public interests justify a resort to this remedy") & 620, citing Cal. Code Regs., tit. 11, § 1 (requiring that application for "leave to sue" be served and filed).

⁶ See Cal. Code Regs., tit. 11, § 2 (requiring that application include these documents).

⁷ The full title of the Response is "Proposed Defendant Gloria D. Gray's Response to Notice to Show Cause; Memorandum of Points and Authorities in Opposition to Application for Leave to Sue in Quo Warranto."

⁸ See *Sternbeck v. Buck* (1957) 148 Cal.App.2d 829, 835 (service would have been proper if process server, defendant, and defendant's wife had been standing within a few feet of

(continued...)

The West Basin Municipal Water District supplies water “to nearly one million people in 17 cities and unincorporated areas in Los Angeles County.”⁹ It is governed by an elected Board of Directors.¹⁰ Gray has held office on the West Basin Board since 2006 and started her most recent four-year term in 2022. But the applicants assert that she forfeited her office in 2023, after she won a run-off election and became a city councilmember in Inglewood, which lies within West Basin’s service area.¹¹ The applicants base their claim on a state law that prohibits holding incompatible public offices, which causes forfeiture of the first-held office to preserve loyalty to the office most recently taken.¹²

An Attorney General opinion published in 2002 concludes that two offices just like those in question here—membership on a city council and a municipal water district board—are incompatible.¹³ Given a city council’s power to obtain water for its constituents and a water board’s power to supply that water, the opinion reasons that a person serving in both offices could face divided loyalties from being on opposite sides of water-supply transactions.¹⁴ No intervening authority calls that opinion into question. In fact, a 2020 court of appeal decision, *People ex rel. Lacey v. Robles*, affirms that offices of city council member (as mayor) and a water district board director (of a water

each other in defendant’s yard, and process server had given the documents to defendant’s wife upon defendant’s instruction to do so); see also 1 Cal. Affirmative Def. § 2:6 (2d ed.) (describing when “strict requirements of manual delivery are relaxed”). In any event, Gray acknowledges that she later received all papers via email from our office before filing her opposition. She therefore had notice and an opportunity to respond.

⁹ West Basin Municipal Water District, About West Basin, What We Do, <https://www.westbasinca.gov/about-west-basin/what-we-do> (as of Oct. 6, 2026).

¹⁰ West Basin Municipal Water District, About West Basin, Board of Directors, <https://www.westbasinca.gov/about-west-basin/board-of-directors> (as of Oct. 6, 2026).

¹¹ We need not consider which of Inglewood City Council’s four districts Gray represents, because its councilmembers exercise powers of the City as a whole. (Inglewood City Charter, art. VI, § 10 [vesting City Council with powers of City].)

¹² Gov. Code, § 1099, subd. (b); *People ex rel. Chapman v. Rapsey* (1940) 16 Cal.2d 636, 644 (“The rule is settled with unanimity that where an individual is an incumbent of a public office and, during such incumbency, is appointed or elected to another public office, and enters upon the duties of the latter, the first office becomes at once vacant if the two are incompatible,” internal quotation marks omitted) (*Rapsey*).

¹³ 85 Ops.Cal.Atty.Gen. 199 (2002).

¹⁴ *Id.* at p. 201; see also 85 Ops.Cal.Atty.Gen. 60, 62 (2002).

replenishment district) are legally incompatible.¹⁵ The court’s reasoning makes clear that the type of water district makes no difference—the fact that it could supply water, at a price it sets, that was sold to the city made the offices incompatible.¹⁶

Here, the applicants allege that West Basin not only has the power to supply water to Inglewood, but that over 75% of Inglewood’s potable water is actually supplied by West Basin. Gray took office on the Inglewood City Council but purports to remain in office on West Basin’s board.¹⁷ The applicants now seek to remove Gray from the West Basin board to enforce the incompatible-offices prohibition.

ANALYSIS

As explained above, quo warranto is the legal process for challenging a person’s right or eligibility to hold a public office.¹⁸ State law allows such a lawsuit to be brought only in the name of the people of the state, by the Attorney General directly or by a “relator” who has obtained the Attorney General’s permission, “against any person who usurps, intrudes into, or unlawfully holds or exercises any public office . . . within this state.”¹⁹ To grant a proposed relator’s quo warranto application, we require that: (1) quo warranto is the correct legal process to address what is alleged, (2) the application raises a substantial issue of fact or law that is appropriate for judicial resolution, and

¹⁵ *People ex rel. Lacey v. Robles* (2020) 44 Cal.App.5th 804, 814. A mayor is a member of the city council and has all the same powers of other city council members. (Gov. Code, § 34903.)

¹⁶ *People ex rel. Lacey v. Robles, supra*, 44 Cal.App.5th at p. 814 (“We think it obvious that a shopkeeper who sets the prices that customers must pay would face a real possibility of divided loyalties if simultaneously selected to be a consumer advocate for the customers who patronize the store”); see *id.* at p. 812 (explaining that groundwater district assessments are reflected in rates of water companies selling groundwater to city and its residents).

¹⁷ Although it is not material to the analysis of whether the application should be approved, Gray is seeking re-election to both offices in November 2026 (to the Council as mayor). (See Gov. Code, § 34903 [mayor is member of city council].)

¹⁸ *Nicolopoulos v. City of Lawndale, supra*, 91 Cal.App.4th at pp. 1225-1226, citing Code Civ. Proc., § 803.

¹⁹ Code Civ. Proc., § 803 (“An action may be brought by the attorney-general, in the name of the people of this state, upon his own information, or upon a complaint of a private party, against any person who usurps, intrudes into, or unlawfully holds or exercises any public office, civil or military, or any franchise, or against any corporation, either de jure or de facto, which usurps, intrudes into, or unlawfully holds or exercises any franchise, within this state”); *Rando v. Harris* (2014) 228 Cal.App.4th 868, 875; see Cal. Code Regs., tit. 11, §§ 1-2 (referring to applicant as “relator”).

(3) authorization of the quo warranto lawsuit would serve the public interest.²⁰ Here, all three criteria are met.

1. Quo Warranto Is the Correct Legal Process To Enforce Office Forfeiture

We begin by assessing whether the application’s legal claims are properly raised in a quo warranto action. Here, they are. State law provides that a quo warranto action is how to enforce the forfeiture of a “public office” from taking a second public office that is incompatible with the first.²¹ A “public office” for these purposes includes serving on a city council and a municipal water district board.²² Incompatibility of those offices would mean Gray “resigned by operation of law” from West Basin’s board when she became a member of the Inglewood City Council.²³ Quo warranto is therefore the correct process to remove her from West Basin’s board.

2. Substantial Issue for Judicial Resolution Regarding Incompatibility of Offices

In this section, we explain the state law ban on holding incompatible offices, then why the incompatible-offices issue here is appropriate for judicial resolution.

State Law Ban on Holding Incompatible Offices

Government Code section 1099 prohibits holding incompatible public offices.²⁴ It is based on a policy that the public is best served when officers perform their duties without conflicting loyalties that might arise by holding two offices.²⁵ When two offices are incompatible, a dual officeholder may not escape the prohibition by choosing not “to

²⁰ See *Rando v. Harris*, *supra*, 228 Cal.App.4th at p. 879, quoting 72 Ops.Cal.Atty.Gen. 15, 20 (1989).

²¹ Gov. Code, § 1099, subd. (b), citing Code Civ. Proc., § 803.

²² Gov. Code, § 1099, subd. (a); 85 Ops.Cal.Atty.Gen. 199, 200 (2002) (member of city council and member of municipal water district board of directors both hold “public office” for purposes of incompatible-offices prohibition).

²³ See Gov. Code, § 1099, subd. (b); *Rapsey*, *supra*, 16 Cal.2d at pp. 642-644.

²⁴ This statute codifies earlier court decisions—also known as the common law—which continues to inform the prohibition now in the statute. (Gov. Code, § 1099, subd. (f); Stats. 2005, ch. 254, § 2 [“Nothing in this act is intended to expand or contract the common law rule prohibiting an individual from holding incompatible public offices. It is intended that courts interpreting this act shall be guided by judicial and administrative precedent concerning incompatible public offices developed under the common law”].)

²⁵ 68 Ops.Cal.Atty.Gen. 337, 339 (1985).

perform one of the incompatible roles.”²⁶ Instead, the first office is deemed forfeited.²⁷ While incompatibility may be overridden by a state law that compels or expressly authorizes simultaneously holding the two offices, no such law exists here.²⁸

Offices are incompatible when there is a possible “significant clash of duties or loyalties between the offices,” in light of their respective powers and jurisdiction.²⁹ A clash of duties or loyalties is “significant” if it is not merely trivial and is more certain than mere chance.³⁰ Simultaneously serving two separate entities with overlapping jurisdiction and interrelated powers might cause conflicting duties or loyalties because what is best for one entity might not always be what is best for the other. A conflict need not actually occur to create an incompatibility; it is enough that a conflict *might* occur in the lawful exercise of powers allotted to the respective offices.³¹ And the potential for a significant clash is not necessary in all or in the greater part of the official functions.³² “Only one potential significant clash of duties or loyalties is necessary to make offices incompatible.”³³ If a dual officeholder’s ability to vigorously represent and advocate for

²⁶ 67 Ops.Cal.Atty.Gen. 409, 414 (1984), quoting 3 McQuillin, *Municipal Corporations* (rev. ed. 1973) § 12.67, pp. 295-296. The prohibition “was designed to avoid the necessity for that choice.” (*Ibid.*)

²⁷ Gov. Code, § 1099, subd. (b).

²⁸ See Gov. Code, § 1099, subd. (a); cf. Wat. Code, §§ 71000-73001 (setting forth provisions that apply to municipal water districts, which contain nothing on simultaneously holding office on a city council). On this issue, Gray cites the Metropolitan Water District Act, section 56, which authorizes members of the Metropolitan Water District of Southern California to serve simultaneously on the governing board of local agencies that are members of the District. But she does not explain how that Act authorizes dual officeholding on the West Basin Board and the Inglewood City Council. And although Gray is serving on the board of the Metropolitan Water District of Southern California, that position is not at issue.

²⁹ Gov. Code, § 1099, subd. (a)(2). Incompatibility also exists when one office has supervisory, auditory, removal, or veto power over the other office. (*Id.*, subd. (a)(1).) Neither office before us has such power over the other. In addition, two offices are incompatible if “[p]ublic policy considerations make it improper for one person to hold both offices.” (*Id.*, subd. (a)(3).)

³⁰ 104 Ops.Cal.Atty.Gen. 15, 20 (2021) (interpreting “significant”).

³¹ *Rapsey*, *supra*, 16 Cal.2d at p. 642; 104 Ops.Cal.Atty.Gen. 58, 61 (2021), citing 98 Ops.Cal.Atty.Gen. 94, 96 (2015).

³² *Rapsey*, *supra*, 16 Cal.2d at pp. 641-642.

³³ 85 Ops.Cal.Atty.Gen. 199, 200 (2002).

each entity's constituency might be compromised, the first office is forfeited to ensure loyalty to a single office's constituency—the one the officeholder most recently chose.³⁴

Substantial Issue of Incompatibility

The City of Inglewood's powers are implemented by its City Council, and West Basin's powers are implemented by its Board.³⁵ The City Council has the power, among many others, to obtain water for the City and its residents.³⁶ And West Basin is empowered to supply water at rates it sets.³⁷ The applicants contend, among other things, that the City buys water supplied by West Basin as a wholesale supplier, and that the City is therefore affected by West Basin's rates. The applicants report that West Basin supplies over 75% of the City's potable water.

Prior Attorney General opinions have consistently concluded that public offices are incompatible in similar circumstances. Indeed, a 2002 opinion concludes that offices on a city council and a municipal water district board—the same offices as here—are incompatible, because their interrelated powers relating to the supply of water create a potential significant clash of duties or loyalties.³⁸ The prior opinion lays out a municipal water district's powers, which have not since changed:

to acquire, control, distribute, store, spread, treat, and recycle water (Wat. Code, § 71610), sell water (Wat. Code, §§ 71611, 71614), acquire, construct and operate sewage and storm water facilities (Wat. Code, § 71670), enter contracts with other public entities for the purpose of carrying out any of its powers (Wat. Code, § 71722), impose taxes (Wat. Code, §§ 72090-72102) and exercise the right of eminent domain (Wat. Code, §§ 71693, 71694), among other powers and duties (see Wat. Code, § 71590; *Carlton Santee Corp. v. Padre Dam Mun. Water Dist.* (1981) 120

³⁴ See Gov. Code, § 1099, subds. (a)(2), (b).

³⁵ Inglewood City Charter, art. VI, § 10 (vesting City Council with powers of City); Wat. Code, § 71300.

³⁶ Inglewood City Charter, art. III, § 4, clauses 11, 47, 81 (bestowing powers to supply water and water facilities to City and inhabitants).

³⁷ Wat. Code, §§ 71611 (empowering municipal water district to sell water), 71614 (empowering district to set water rates); 85 Ops.Cal.Atty.Gen. 60, 61 (2002) (explaining water district powers and citing Water Code sections which have not since been amended).

³⁸ 85 Ops.Cal.Atty.Gen. 199 (2002); see also 37 Ops.Cal.Atty.Gen. 21, 22-23 (1961) (distinguishing a contrary case, *People ex. rel. Moody v. Carter* (1936) 12 Cal.App.2d 105, which predates the seminal incompatible-offices case, *Rapsey, supra*, 16 Cal.2d at p. 636).

Cal.App.3d 14, 24). The District may also undertake a water conservation program (Wat. Code, § 71610.5) and restrict the use of District water during any emergency caused by a water shortage (Wat. Code, § 71640).^[39]

The opinion then explains that a city has the power, among others, “to acquire water supplies and facilities for use by the City and its inhabitants” and “to do so by contract” “or other means.”⁴⁰ Here, Inglewood’s governing charter gives such powers to the City Council.⁴¹

In light of those powers, the opinion concludes that membership on a municipal water district board is incompatible with serving on a city council. The opinion reasons that the water district’s role as water supplier and the city’s role in selling water could create “significant clashes of duties and loyalties for a person holding the two offices in question.”⁴² This was true even though the district did not sell water directly to the city, but to an entity that sold water to the city, because the district’s rates were reflected in the price the city ultimately paid.⁴³ In addition, the opinion reasons, the district was authorized to institute a water-conservation program that could affect the city.⁴⁴

And those “are but two examples of instances in which ‘a person who is both a director of the district and a council[member] of the city may find a conflict between the action which is in the best interests of the district and the action which is in the best interests of the city.’”⁴⁵ “Other conflicts could arise from the exercise of the power of eminent domain by either the City or the District and in the exercise of the authority of the two entities to contract with one another.”⁴⁶ The city’s water- and land-use decisions might also affect the district’s water supply. In all of these circumstances, the opinion concludes, “what might be in the best interests of the City may not be in the best interests

³⁹ 85 Ops.Cal.Atty.Gen. 199, 200 (2002).

⁴⁰ *Id.* at p. 201.

⁴¹ Inglewood City Charter, art. III, § 4, clauses 11, 47, 81; *id.*, Art. VI, § 10 (vesting City Council with powers of City).

⁴² 85 Ops.Cal.Atty.Gen. 199, 201 (2002).

⁴³ *Ibid.*

⁴⁴ *Id.* at p. 202.

⁴⁵ *Id.* at p. 201, quoting 37 Ops.Cal.Atty.Gen., *supra*, at pp. 22-23.

⁴⁶ 85 Ops.Cal.Atty.Gen. 199, 201-202 (2002), citing 75 Ops.Cal.Atty.Gen. 10, 13 (1992), *Central Basin Municipal Water District v. Fosette* (1965) 235 Cal.App.2d 689, 743.

of the District.”⁴⁷ Other Attorney General opinions have reached the same conclusion in analyzing other types of water districts.⁴⁸

The reasoning of our prior opinions applies equally to the circumstances here. We therefore conclude that the quo warranto application before us, at a minimum, raises a substantial issue whether Gray forfeited her office as water board director when she became a city councilmember. While our prior opinions predate the enactment in 2005 of Government Code section 1099, the statute adopts the same incompatibility test our earlier opinions had applied.⁴⁹

The 2020 decision in *People ex rel. Lacey v. Robles* further supports our conclusion that there is at least a substantial question as to incompatibility. In *Robles*, the Court of Appeal held that the office of mayor on a city council and board director of a water replenishment district are incompatible.⁵⁰ The court explained that the water district’s groundwater replenishment fee would “ultimately be paid” by city residents and the city itself (for water supplied to city buildings).⁵¹ So, the respective “duties and loyalties” of each office pointed in opposite directions: the water district director’s duty was to ensure the fee was high enough to maintain the water supply, but the mayor’s duty was “to minimize” fees paid for the water.⁵² Given this “obvious” potential conflict over water rates, *Robles* concludes the offices are incompatible.⁵³ Drawing upon *Robles*, we granted a quo warranto application in 2023 involving offices similar to those here, city councilmember and board director of a county water district.⁵⁴

Based on all of the above, we conclude there is at least a substantial legal issue as to whether the offices in question are incompatible, such that Gray forfeited her West Basin Board seat when she took office on the Inglewood City Council.

⁴⁷ 85 Ops.Cal.Atty.Gen. 199, 202 (2002).

⁴⁸ For example, another opinion concludes that the offices of a county water district director and a city councilmember are incompatible because a dual office holder “would have to serve two masters” in negotiating contracts for water. (37 Ops.Cal.Atty.Gen., *supra*, at pp. 22-23.)

⁴⁹ See *ante*, fn. 24.

⁵⁰ *People ex rel. Lacey v. Robles*, *supra*, 44 Cal.App.5th at p. 821.

⁵¹ *Ibid.*

⁵² *Ibid.*

⁵³ *Ibid.*

⁵⁴ 106 Ops.Cal.Atty.Gen. 10, 12-13 (2023).

3. The Public Interest Favors Authorizing Suit

Finally, we conclude that it is in the public interest to have this matter conclusively resolved through the judicial process of quo warranto. We have generally viewed the presence of a substantial issue warranting judicial resolution as a sufficient public purpose to grant leave to sue, absent countervailing circumstances.⁵⁵

Here, Gray objects to granting leave to sue, pointing to the fact that only a few months remain in her term of office. In some prior Attorney General opinions, we have cited the brevity of a remaining term to deny leave to sue, but in others, including recently, we have granted an application despite the length of the remaining term.⁵⁶ For instance, we recently granted an application where the defendant had a similar amount of time remaining in office, due in part to the weight of authority supporting the relator's incompatible-offices claim.⁵⁷ Evaluating the circumstances here, we conclude that granting leave to sue will advance the public interest. The applicants have likewise identified strong support for the claim of incompatibility, as described above. And a court could order interim relief—such as a temporary restraining order or preliminary injunction—with immediate effect.

Moreover, two recent Court of Appeal decisions concluded that quo warranto litigation was not moot despite the challenged term of office ending. A 2025 decision allowed a quo warranto case to continue after the defendant had left office because the issue was of “broad public interest.”⁵⁸ “[T]he public has a significant interest,” the decision reasons, “in knowing whether [the former official] was properly appointed to office.”⁵⁹ And a 2023 quo warranto case similarly proceeded on the merits after the challenged terms of office had ended because the “appeal raised [an] issue pertaining to public elections,” which was “of public importance yet . . . likely to evade review.”⁶⁰

Here, a court could likewise conclude that quo warranto litigation should continue beyond the end of Gray's term. Although the recent Court of Appeal cases did not

⁵⁵ 98 Ops.Cal.Atty.Gen., *supra*, at p. 101; 87 Ops.Cal.Atty.Gen. 153, 156 (2004).

⁵⁶ Compare, e.g., 75 Ops.Cal.Atty.Gen., *supra*, at p. 14 (denying leave to sue on timeliness grounds where less than four months remained in the challenged term), with 105 Ops.Cal.Atty.Gen. 65, 66, 68 (2022) (granting leave to sue where approximately three months remained).

⁵⁷ 109 Ops.Cal.Atty.Gen. ___, *1, *2, *4 (2026) (Opinion No. 26-802, granting leave to sue where approximately two months remained).

⁵⁸ *People ex rel. Alameda County Taxpayers' Assn., Inc. v. Brown* (2025) 114 Cal.App.5th 919, 932.

⁵⁹ *Ibid.*, internal quotation marks omitted.

⁶⁰ *People ex rel. Schlesinger v. Sachs* (2023) 97 Cal.App.5th 800, 811, fn. 4.

consider a claim of incompatible officeholding, a court could determine that the issue here has ongoing “broad public interest” as well.⁶¹ Under the totality of the circumstances, we conclude that allowing the proposed quo warranto action to proceed will further an important public interest in ensuring public officials avoid conflicting loyalties in performing public duties.

Accordingly, the application for leave to sue in quo warranto is GRANTED.

⁶¹ *People ex rel. Alameda County Taxpayers’ Assn., Inc. v. Brown, supra*, 114 Cal.App.5th at p. 932.