

MONTHLY OPINION REPORT

CALIFORNIA ATTORNEY GENERAL'S OFFICE



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May 1, 2025

The Attorney General's Opinion Unit is responsible for researching and drafting the formal opinions of the Attorney General. This Monthly Opinion Report lists all of the questions that are currently under consideration for formal opinions.

The Attorney General welcomes and solicits the views of all interested persons concerning the issues raised in any question submitted for an opinion. Views should be in writing and directed to the deputy assigned to prepare the opinion. Contact information for deputies is included at the end of this report. All views submitted before publication will be considered, but early submissions are greatly preferred. All submissions will be treated as public records subject to disclosure under the Public Records Act.

For more information about the Opinion Unit, or to retrieve a copy of a published opinion, please see our website at <http://oag.ca.gov/opinions>.

NEW QUESTIONS ASSIGNED DURING APRIL 2025

No new matters were assigned during this period.

OPINIONS ISSUED OR CONCLUDED DURING APRIL 2025

24-501 (issued April 2, 2025)

Question Presented and Conclusion:

The Density Bonus Law, codified at Government Code sections 65915-65918, seeks to incentivize real estate developers to build affordable housing for rental or sale at below-market prices for households with qualifying incomes. It does so by allowing developers

who include a specified amount of affordable housing units in their developments to build more housing units—referred to as “density-bonus units” or “bonus units”—than would otherwise be permitted by local regulations that limit building density. While nothing in the Density Bonus Law requires the density-bonus units to themselves qualify as affordable, may a city or county nevertheless impose its own affordable housing requirements on such units?

No. A city or county may not impose affordable housing requirements on density-bonus units that are awarded under the Density Bonus Law because it would impermissibly conflict with the state law formula for calculating how many density-bonus units are awarded per affordable unit under state law. Because of this conflict, the state Density Bonus Law would preempt the contemplated local legislation. A city or county may, however, award its own density-bonus units *in addition to* those awarded under the Density Bonus Law and may impose affordable housing requirements on those additional units.

24-404 (issued April 2, 2025)

Question Presented and Conclusion:

Does the California Citizens Compensation Commission have the authority to adjust the compensation of the members of the State Board of Equalization to reflect a substantial reduction in their duties, powers, and responsibilities due to the passage of Assembly Bill 102 (The Taxpayer Transparency and Fairness Act of 2017)?

Yes, the Commission has authority to adjust the compensation of members of the State Board of Equalization to reflect a substantial legislative reduction in their functions and duties due to the passage of Assembly Bill 102.

24-502 (issued April 23, 2025)

Question Presented and Conclusion:

Does Public Utilities Code section 11865, a provision of the Municipal Utility District Act, require an appointed board member to step down before election day, which would necessarily occur before certification of the election results, thereby leaving a vacancy in office until a successor is seated?

No. Under Public Utilities Code section 11865, an appointed board member must step down only when an elected successor takes office upon certification of the election.

OPINIONS PENDING

Opinion Requests

- 25-304** Can the California Department of Tax and Fee Administration contract to administer the transactions and use taxes of a county and of a city within that county when the tax ordinances are approved by their respective electorates in the same election but the imposition of both taxes would cause the combined rate of tax in the county to exceed the limit set forth in both the specific authorizing provision of Part 1.7 of Division 2 and section 7251.1 of the Revenue and Taxation Code? (Kentfield)
- 24-1102** May a concealed carry weapon (CCW) permit be denied under Penal Code section 26202(a)(8), which disqualifies CCW permit applicants who are “currently abusing controlled substances,” based on an applicant’s otherwise lawful use of marijuana under California law? (Bidart)
- 24-1101** Do the exemptions from local building and zoning ordinances set forth in Government Code section 53091, subdivisions (d) and (e), apply to all California public water systems, including independent water companies? (Duncan Lee)
- 24-902** Are claw machines illegal gambling devices under California’s gaming device statutes? (Kentfield)
- 24-702** May the same individual serve simultaneously on the Board of Commissioners for the White Mountain Fire Protection District and the Board of Directors for the Tri Valley Groundwater Management District? (McCarroll)
- 24-405** Has the United States acquired legislative jurisdiction at San Clemente Island, Los Angeles County, pursuant to Chapter 56, Statutes of 1897? (McCarroll)
- 24-403** May federally recognized Indian tribes which are located exclusively within the exterior boundaries of the State of California, and who have adopted laws that impose comprehensive requirements substantially comparable to the California Cannabis Regulatory Framework, lawfully conduct intrastate commercial cannabis activity solely within the State of California with California state cannabis licensees without obtaining such a license themselves? (Thomas)
- 24-102** Is Madera County’s Regional Water Management Group subject to the Brown Act? (Thomas)

- 23-1001** Does California law prohibit the offering and operation of daily fantasy sports betting platforms with players physically located within the State of California, regardless of whether the operators and associated technology are located within or outside of the State? (Kentfield)
- 23-701** Does the California Office of Tax Appeals have the legal authority and jurisdiction to issue a written opinion declaring a provision in the California Code of Regulations, which was promulgated by a different state agency and approved by the Office of Administrative Law, to be invalid and refuse to enforce the regulation on that basis? (Kentfield)
- 23-601** 1. May the California State Teacher's Retirement System (CalSTRS) assess a penalty against a county office of education (COE) for errors in the CalSTRS reporting and contributions of a charter school that operates within the county and submits its CalSTRS payments through the COE? 2. If so, how may the COE defend against an assessment it believes to be incorrect? 3. Could CalSTRS issue a warrant that would allow the COE to withdraw funds directly from an agency that provides its CalSTRS reporting and contributions through the COE if that agency refuses to submit its penalty assessments to the COE voluntarily? (Medeiros)

Quo Warranto Matters

- 25-301** Was Christopher Pikus validly appointed to the Poway City Council? (Medeiros)
- 24-1002** Was Mark Skvarna validly appointed to the office of Montebello Unified School District Superintendent? (McCarroll)
- 24-802** May the San Diego Police Officers Association challenge the validity of a provision of the Proposition B initiative measure that the Association alleges to have unlawfully affected the pension benefits of some of its members? (Kentfield)

CONTACT US

To submit an opinion request or a quo warranto application, please contact:
Senior Assistant Attorney General Marc J. Nolan at Marc.Nolan@doj.ca.gov.

The Opinion Unit invites comments on the questions posed in pending opinion requests. To share your views, please contact the deputy assigned to prepare the opinion. Deputies can be reached at the following email addresses:

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For all other inquiries, please contact Stephanie Grimes, Associate Governmental Program Analyst, at Stephanie.Grimes@doj.ca.gov or (916) 210-6005.

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