

MONTHLY OPINION REPORT

CALIFORNIA ATTORNEY GENERAL'S OFFICE



XAVIER BECERRA
Attorney General

SEAN McCLUSKIE
Chief Deputy
to the Attorney General

MICHAEL MONGAN
Solicitor General

OPINION UNIT

Mollie Lee, Sr. Asst. AG
Catherine Bidart, Deputy
Anyia M. Binsacca, Deputy
Lawrence M. Daniels, Deputy
Susan Duncan Lee, Deputy
Diane E. Eisenberg, Deputy
Manuel M. Medeiros, Deputy
Marc J. Nolan, Deputy
Stephanie Grimes, SSA



OPINION UNIT

P. O. Box 944255

Sacramento, CA 94244-2550

(916) 210-6005

September 1, 2020

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.

If you would like to give us your input on any of these questions, the Opinion Unit would be delighted to hear from you. The Attorney General welcomes and solicits the views of all interested persons concerning the legal issues raised in any question submitted for an opinion. Views should be in writing and directed to the deputy assigned to prepare the opinion. 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 AUGUST 2020

No opinion requests were assigned for this period.

OPINIONS PENDING

Opinion Requests

20-303 Does a request for access to personal information under the California Consumer Privacy Act apply to internally-generated inferences or derived data? (Duncan Lee)

- 20-301** Does a declaration of (1) a shelter crisis under Government Code section 8698 et seq., or (2) a public emergency under Government Code section 8625 et seq., constitute a state of emergency for purposes of the “Good Samaritan” Law in Health and Safety Code section 1799.102? (Bidart)
- 20-202** Does a county board of supervisors have jurisdiction to hear PACE assessment appeals, and, if so, what is the administrative procedure? (Medeiros)
- 20-102** Are the offices of executive director of a charter school (or similar title) and member of the county board of education in the same county incompatible offices? (Binsacca)
- 20-101** 1. May an elected county recorder, whose operations are solely funded by recording fees collected as directed by Government Code section 27361, subdivision (a), re-claim from the county those fees diverted to the county’s general fund and utilized for supporting other county departments? 2. In the alternative, may the county recorder recoup the diverted funds by means of an offset? (Daniels)
- 19-1001** Does Government Code section 83105 prohibit a Fair Political Practices Commission member from making a campaign contribution to a federal candidate for (1) President; and/or (2) Congress? (Bidart)
- 19-901** Under the “remote interest” exception set forth in Government Code section 1091(b)(17), may a member of the South Coast Air Quality Management District (District) apply for and obtain District grants for their import/export logistics business without violating Government Code section 1090’s prohibition against public officials holding a personal financial interest in public contracts? (Medeiros)
- 19-405** Does Government Code section 1090 permit a County Superintendent of Education, who is also a special education teacher employed by the County, to negotiate on behalf of the County in collective bargaining with his represented special education teachers’ employment unit? (Nolan)
- 19-401** Does California law authorize a county to contract with the military to provide municipal-like services in support of a military installation within the county? (Bidart)
- 19-301** Is a paid victim advocate for sexually exploited youth a mandated reporter under the Child Abuse and Neglect Reporting Act (CANRA)? (Eisenberg)
- 18-1001** Is a county animal shelter permitted to refuse to relinquish an owner-surrendered dog to a nonprofit no-kill shelter? (Medeiros)
- 18-902** When a subdivider owns one parcel and subdivides that parcel pursuant to a parcel map, then sells off the resulting new subdivided parcels, and subsequently acquires a contiguous parcel and seeks to divide that parcel

- pursuant to a parcel map, should the local agency count the previously subdivided contiguous parcels as part of the application? (Medeiros)
- 18-901** 1. Is the Bagley-Keene Act violated if the Commission votes on an agenda item where the agenda states only that the matter will be discussed, not specifically that the Commission would take any action on the item, but the top of the agenda contains a general statement that the Commission may act on any item listed on the agenda? 2. Is the Bagley-Keene Act violated if a majority of FPPC of Commissioners meets outside a public meeting (e.g., over lunch) and talks about how the Bagley-Keene Act applies to the FPPC? 3. Is the Bagley-Keene Act violated if one member of the public sends an email to five FPPC Commissioners and other members of the public, and one Commissioner responds by email but only to the members of the public? (Daniels)
- 18-603** 1. Does a county superintendent of education's "stay and rescind" authority permit the stay of sale or issuance of bonds by a school district with a qualified or negative certification? (Ed. Code sec. 42127.6.) 2. May such a stay remain in place pending resolution of a related investigation by the District Attorney? (Binsacca)
- 18-502** Do nuisance abatement liens expire after 10 years; if so, what is the procedure and effective date for renewal? (Bidart)
- 18-201** Is it a Brown Act violation for joint powers authority members to consult appointing authority in open session? (Bidart)
- 18-103** Does Penal Code section 919(b) require the civil grand jury to annually investigate local detention centers as "public prisons"? (Bidart)
- 16-402** Must specified prior offenders receive a formal pardon from the Governor in order to obtain a "certificate of rehabilitation and pardon" and qualify for a classified employment position at a school or community college district? (Eisenberg)
- 14-202** May the "premium" generated from a school district bond sale be used to pay for expenses of issuance and other transaction costs? (Medeiros)

Quo Warranto Matters

No quo warranto matters for this period.

OPINIONS ISSUED IN AUGUST 2020

19-1201—August 24, 2020

Question: JEREMIAH BROROWSKE (Relator) requests leave to sue Defendants CITY OF HESPERIA and BRIGIT BENNINGTON in quo warranto to remove Defendant Bennington from the District 4 seat on the Hesperia City Council, on the ground that Relator is lawfully entitled to hold that seat, but was wrongfully unseated by the City Council due to an alleged ineligibility to hold the office.

Conclusion: Relator raises substantial issues of fact and law as to his eligibility to hold the District 4 seat on the Hesperia City Council and, therefore, as to Defendant Bennington's present right to hold that seat. Because it is in the public interest to have those issues judicially resolved, Relator's request for leave to sue is GRANTED.

OPINIONS CONCLUDED IN AUGUST 2020

(Answered by Letter, Withdrawn or Cancelled)

No matters were concluded in August.

The deputies assigned to the questions submitted can be reached at the following addresses and telephone numbers:

Mollie Lee, Senior Assistant Attorney General:

Mollie.Lee@doj.ca.gov; 455 Golden Gate Avenue, Suite 11000,
San Francisco, CA 94102; (415) 510-4439.

Catherine Bidart, Deputy Attorney General:

Catherine.Bidart@doj.ca.gov; 300 S. Spring Street, Los Angeles, CA 90013;
(213) 269-6384.

Anya M. Binsacca, Deputy Attorney General:

Anya.Binsacca@doj.ca.gov; 455 Golden Gate Avenue, Suite 11000,
San Francisco, CA 94102; (415) 510-4417.

Lawrence M. Daniels, Deputy Attorney General:

Larry.Daniels@doj.ca.gov; 300 S. Spring Street, Los Angeles, CA 90013;
(213) 269-6388.

Susan Duncan Lee, Deputy Attorney General:

Susan.Lee@doj.ca.gov; 455 Golden Gate Avenue, Suite 11000, San Francisco,
CA 94102; (415) 510-3815.

Diane E. Eisenberg, Deputy Attorney General:

Diane.Eisenberg@doj.ca.gov; 455 Golden Gate Avenue, Suite 11000,
San Francisco, CA 94102; (415) 510-3789.

Manuel M. Medeiros, Deputy Attorney General:

Manuel.Medeiros@doj.ca.gov; P. O. Box 944255, Sacramento, CA
94244-2550; (916) 210-6004.

Marc J. Nolan, Deputy Attorney General:

Marc.Nolan@doj.ca.gov; 300 S. Spring Street, Los Angeles, CA 90013;
(213) 269-6392.