

MONTHLY OPINION REPORT

CALIFORNIA ATTORNEY GENERAL'S OFFICE



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September 1, 2024

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 AUGUST 2024

24-801 Quo Warranto Application

May Thomas Bekele continue to serve on the Central Basin Water Municipal Water District Board of Directors after announcing his resignation from that body?

(Assigned to Deputy Attorney General Ryan B. McCarroll.)

24-802 Quo Warranto Application

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?

(Assigned to Deputy Attorney General Karim J. Kentfield.)

24-803 requested by Assemblymember Steve Bennett

Can a general law city that has been required to expand the legislative body to seven members (rather than five) to comply with district-based election requirements, establish a seven-member Library Board of Trustees to permit all members of the legislative body to serve in this capacity (instead of a five-member body as specified in California Education Code Section 18910)?

(Assigned to Deputy Attorney General Catherine Bidart.)

OPINIONS ISSUED OR CONCLUDED DURING AUGUST 2024

Opinion No. 23-401 (issued August 9, 2024)

Question Presented and Conclusion:

May prosecutors lawfully issue criminal grand jury subpoenas for witnesses to appear at a future grand jury proceeding where the grand jury that will hear their testimony has not yet been impaneled?

Yes, prosecutors may lawfully issue criminal grand jury subpoenas for witnesses to appear at a future grand jury proceeding where the grand jury that will hear their testimony has not yet been impaneled. The prosecutor's subpoena power and the court's enforcement power exist regardless of whether the grand jury has been impaneled.

OPINIONS PENDING

Opinion Requests

- 24-803** Can a general law city that has been required to expand the legislative body to seven members (rather than five) to comply with district-based election requirements, establish a seven-member Library Board of Trustees to permit all members of the legislative body to serve in this capacity (instead of a five-member body as specified in California Education Code Section 18910)? (Bidart)
- 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)
- 24-502** Does Public Utilities Code section 11865 require an appointed district board member to step down between the date of the general election following their appointment and the date that the secretary of the district certifies the election results? (Medeiros)
- 24-501** Does the State Density Bonus Law (Government Code sections 65915-65918) allow a local government to impose local affordable housing requirements on the entire number of residential units proposed in a project—that is, including those units resulting from a density bonus under the state law? (Bidart)
- 24-405** Has the United States acquired legislative jurisdiction at San Clemente Island, Los Angeles County, pursuant to Chapter 56, Statutes of 1897? (McCarroll)
- 24-404** Does the California Citizens Compensation Commission have the authority to adjust the base pay of the members of the State Board of Equalization in light of the reduction in their duties, powers and responsibilities following passage of Assembly Bill 102, The Taxpayer Transparency and Fairness Act of 2017? (Duncan Lee)
- 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)

- 24-402** When a state body is required by statute to consider and deliberate on privileged, proprietary, or other confidential information related to the conduct of a privately-funded business activity (in this case, the transaction of residential earthquake insurance in the state), does the Bagley-Keene Open Meeting Act require such discussion to occur in an open session of a public meeting? (Medeiros)
- 24-401** Does Public Utilities Code section 12820 require all members of a municipal utility district's "suitable security force" to have the peace officer authority and powers specified in that statute, including its related requirement to comply with the applicable standards of the Commission on Peace Officer Standards and Training (POST)? (Bidart)
- 24-102** Is Madera County's Regional Water Management Group subject to the Brown Act? (Thomas)
- 24-101** Under the terms of Water Code Appendix section 121-408, may the Fox Canyon Groundwater Management Agency hire its own staff or contract with an entity other than the County of Ventura or the United Water Conservation District for staff services? (Duncan Lee)
- 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

- 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)
- 24-801** May Thomas Bekele continue to serve on the Central Basin Water Municipal Water District Board of Directors after announcing his resignation from that body? (McCarroll)
- 24-701** May Michael Sullivan lawfully serve on both the Board of Directors of the Tulare Lake Basin Water Storage District and the Board of Trustees for Tulare Lake Basin Reclamation District No. 761? (Kentfield)

CONTACT US

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 and telephone numbers:

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To submit an opinion request, please contact Senior Assistant Attorney General Marc J. Nolan at Marc.Nolan@doj.ca.gov or (213) 269-6392.

To submit a quo warranto application, please contact Senior Assistant Attorney General Marc J. Nolan at Marc.Nolan@doj.ca.gov or (213) 269-6392.

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

You may also contact the Opinion Unit at the following address:

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