

MONTHLY OPINION REPORT

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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.

QUESTIONS SUBMITTED IN OPINION REQUESTS ASSIGNED DURING DECEMBER 2015

15-1201 requested by Riverside County Counsel Greg Priamos concerning the following question:

Which California state statute governs the filling of vacancies on the Banning Library District Board of Trustees? (Assigned to Deputy Attorney General Manuel M. Medeiros)

OPINIONS PENDING

- 11-201** Is a California charter school and its board of directors subject to: a) the Ralph M. Brown Act; or b) the California Public Records Act; or c) the Political Reform Act of 1974; or d) Government Code section 1090; or e) the review and inspection of books and records, by a Grand Jury formed pursuant to Penal Code section 888? (Most notably, the Grand Jury whose function it is to investigate and inquire into county functions of civil concern, *see also* Penal Code section 933.6.) (Medeiros)
- 11-705** May a court impose a probation condition on a DUI defendant to make a specified payment to the DUIRR Program? (Eisenberg)
- 12-409** May a private attorney acting as a contract city attorney also act as “bond counsel” for the same municipality and be paid based on a percentage of the bond sale without violating Government Code section 1090? (Binsacca)
- 12-1203** May a former local agency employee serve on that public agency’s elected Board of Directors while still being carried on that agency’s employee payroll solely for purposes of utilizing unused vacation leave remaining from his/her time as an active employee? (Eisenberg)
- 13-304** In connection with a school or community college bond measure, does a district violate state law by contracting with a bond underwriter for both pre-election campaign services and post-election underwriting services? (Medeiros)
- 13-403** Does Proposition 26 require that, prior to a County Board of Supervisors enacting an ordinance requiring a cable television company to pay to the County a PEG (public, educational, and governmental access) fee equal to one percent (1%) of the gross revenues under the Digital Infrastructure and Video Competition Act (“DIVCA”), the voters must first approve the imposition of such a fee? (Binsacca)
- 13-1203** May health care professionals offer online discounts for their services through a third-party internet marketer? (Medeiros)
- 14-101** May non-attorneys represent parties in (1) administrative proceedings conducted before the Office of Administrative Hearings, or (2) “due process hearings” conducted under the Education Code? (Medeiros)
- 14-202** May the “premium” generated from a school district bond sale be used to pay for expenses of issuance and other transaction costs? (Nolan)
- 14-301** May an attorney who sits on a city council represent clients with interests adverse to that city? (Daniels)
- 14-304** Under state law, may local authorities restrict parking on public streets to those persons issued residential parking permits? (Russell)

- 14-403** What is the scope of intergovernmental immunity (Gov. Code §§ 53090-53091) where a city owns and leases real property in an unincorporated area of a county? (Russell)
- 14-901** If a school superintendent's employment contract allows the superintendent to receive cash in lieu of medical benefits, may the school board members receive an equivalent sum in a whole life insurance policy in lieu of medical benefits? (Daniels)
- 14-1203** Do technical failures in local agencies' websites violate online agenda posting requirements subject to the Brown Act open meeting laws? (Gov. Code § 54954.2) (Binsacca)
- 14-1206** Must Caltrans pay fees imposed by a county to cover the county's costs for inspecting and reporting on Caltrans surface mining operations within the county? (Russell)
- 15-101** May the Prison Industry Authority deposit funds in a commercial bank account not subject to immediate access or control by other state agencies? (Binsacca)
- 15-201** What are the reporting requirements under the Child Abuse and Neglect Reporting Act for consensual sexual acts between minors of a like age? (Eisenberg)
- 15-301** Is the time for filing the report required under Business and Professions Code section 805 tolled when a healing arts licentiate requests a hearing on the action that triggered the filing requirement? (Binsacca)
- 15-801** How do legally required recusals affect voting allocations among board members of the Metropolitan Water District of Southern California? (Reassigned to Medeiros)
- 15-1101** Quo warranto matter: Does a Rialto city council member reside within city limits? (Daniels)
- 15-1102** Request for advice on the jurisdictional authority of a local housing authority and an out-of-state housing authority under state law. (Binsacca)
- 15-1103** May a city council member, who is also a member of the city's redevelopment successor agency board, purchase commercial property located within a former redevelopment area under circumstances where the member is currently leasing that property under a lease agreement, originally created before the member took office with the city, that contains an option to purchase the leased property? (Daniels)
- 15-1201** Which California state statute governs the filling of vacancies on the Banning Library District Board of Trustees? (Medeiros)

CONCLUSIONS OF OPINIONS ISSUED IN DECEMBER 2015

15-401—December 21, 2015—Whether the doctrine of incompatible public offices precludes Albert Robles from simultaneously serving as a director of the Water Replenishment District of Southern California and as city council member and mayor for the City of Carson presents substantial questions of fact and law warranting judicial resolution. Accordingly, the application for leave to sue is GRANTED.

13-903—December 23, 2015—Under Government Code section 1090, a city council member who is associated, as an independent contractor, with a public-relations firm that provides services to two nonprofit organizations that have contracts with the city, does not have a prohibited financial interest in those contracts where the council member performs no services for the two contracting nonprofits and receives no compensation based on the firm's provision of services to those entities.

OPINIONS CANCELLED IN DECEMBER 2015

No matters were cancelled in December.

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

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