

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 NOVEMBER 2015

15-1101 requested by relator Deborah Robertson concerning the following question:

Quo warranto matter: Does a Rialto city council member reside within city limits?
(Assigned to Deputy Attorney General Lawrence M. Daniels)

15-1102 requested by Executive Director of the California Housing Finance Agency (CalFHA) concerning the following questions:

1. Under California's Housing Authorities Law (Health & Saf. Code, 34200 et seq.), does a local housing authority have the legal authority to operate throughout the entire state?

2. Does a corporation or other instrumentality formed by a local housing authority have the legal authority to exercise the statutory powers of a local housing authority throughout the entire state?

3. Does a local housing authority have the legal authority to accept a federal grant for a housing project that is outside its territorial jurisdiction?

4. Does an out-of-state housing authority have the legal authority to exercise the powers of a housing authority in California?

5. Does a corporation formed by an out-of-state housing authority have the legal authority to exercise the powers of a housing authority in California? (Assigned to Deputy Attorney General Anya M. Binsacca)

15-1103 requested by Assemblymember Jose Medina concerning the following question:

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? (Assigned to Deputy Attorney General Lawrence M. Daniels)

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)
- 13-903** Does Government Code section 1090 prohibit a city agency from utilizing the services of a public relations firm that occasionally retains the services of a city council member for its non-city clients? (Nolan)
- 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)
- 15-401** Quo warranto matter: May the same person simultaneously serve as a Director of the Water Replenishment District of Southern California and a member of the Carson City Council? (Daniels)
- 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)

CONCLUSIONS OF OPINIONS ISSUED IN NOVEMBER 2015

No matters were issued in November.

OPINIONS CANCELLED IN NOVEMBER 2015

No matters were cancelled in November.

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

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