

MONTHLY OPINION REPORT

CALIFORNIA ATTORNEY GENERAL'S OFFICE



ROB BONTA
Attorney General

VENUS D. JOHNSON
Chief Deputy Attorney General

MICHAEL J. MONGAN
Solicitor General

OPINION UNIT

Marc J. Nolan, Senior Assistant Attorney General
Karim J. Kentfield, Supervising Deputy Attorney General
Catherine Bidart, Deputy Attorney General
Susan Duncan Lee, Deputy Attorney General
Ryan B. McCarroll, Deputy Attorney General
Manuel M. Medeiros, Deputy Attorney General
Heather Thomas, Deputy Attorney General
Stephanie Grimes, Associate Governmental Program Analyst



November 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 OCTOBER 2024

24-1001 Quo Warranto Application

Has Christina Holstege forfeited her seat on the Palm Springs City Council by failing to continually reside in the council district she represents?

(Assigned to Deputy Attorney General Catherine Bidart.)

24-1002 Quo Warranto Application

Was Mark Skvarna lawfully appointed to the office of Montebello Unified School District Superintendent?

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

OPINIONS ISSUED OR CONCLUDED DURING OCTOBER 2024

Opinion No. 24-401 (issued October 9, 2024)

Question Presented and Conclusion:

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)?

No. The peace officer authority and powers and POST-standards compliance specified in Public Utilities Code section 12820 are required only as to security force members whom the utility district's general manager designates as "security officers," and whose primary duty is to protect district property and the persons on it. Not every member of a district's security force must be designated as a security officer or possess peace officer powers and authority.

Opinion No. 24-701 (issued October 31, 2024)

Question Presented and Conclusion:

SANDRIDGE PARTNERS, L.P., has applied for leave to sue MICHAEL SULLIVAN in quo warranto to remove him from public office on the Board of Trustees of the Tulare Lake Reclamation District No. 761 (Reclamation District). The application asserts that Sullivan, while serving as a Reclamation District Trustee, assumed a second and incompatible public office on the Board of Directors of the Tulare Lake Basin Water Storage District (Water District), in violation of Government Code section 1099, and by doing so forfeited his seat on the Reclamation District Board.

We conclude that there are substantial legal issues as to whether Sullivan's two Board seats are legally incompatible, and as to whether he can be removed from the Reclamation District Board even though he recently resigned from the Water District Board. We further conclude that the public interest will be served by allowing the proposed quo warranto action to proceed. Consequently, the application for leave to sue is GRANTED.

OPINIONS PENDING

Opinion Requests

- 24-902** Are claw machines illegal gambling devices under California's gaming device statutes? (Kentfield)
- 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)
- 24-102** 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

- 24-1002** Was Mark Skvarna validly appointed to the office of Montebello Unified School District Superintendent? (McCarroll)
- 24-1001** Has Christina Holstege forfeited her seat on the Palm Springs City Council by failing to continually reside in the council district she represents? (Bidart)
- 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)

CONTACT US

To submit an opinion request or a quo warranto application, please contact Senior Assistant Attorney General Marc 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:

Karim J. Kentfield, Supervising Deputy Attorney General:
Karim.Kentfield@doj.ca.gov.

Catherine Bidart, Deputy Attorney General:
Catherine.Bidart@doj.ca.gov.

Susan Duncan Lee, Deputy Attorney General:
Susan.Lee@doj.ca.gov.

Ryan B. McCarroll, Deputy Attorney General:
Ryan.McCarroll@doj.ca.gov.

Manuel M. Medeiros, Deputy Attorney General:
Manuel.Medeiros@doj.ca.gov.

Heather Thomas, Deputy Attorney General:
Heather.Thomas@doj.ca.gov.

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:

Office of the Attorney General
Opinion Unit, Department of Justice
Attn: Stephanie Grimes, AGPA
P. O. Box 944255
Sacramento, CA 94244-2550.