

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 FEBRUARY 2015

14-1206 requested by Mono County Counsel Marshall Rudolph concerning the following question:

Must Caltrans pay fees imposed by county to cover county's costs for inspecting and reporting on Caltrans surface mining operations within the county? (Assigned to Deputy Attorney General Sara J. Russell)

15-101 requested by Prison Industry Authority General Manager Charles L. Pattillo concerning the following question:

May Prison Industry Authority deposit funds in a commercial bank account not subject to immediate access or control by other state agencies? (Assigned to Deputy Attorney General Anya M. Binsacca)

OPINIONS PENDING

- 09-301** May a county collect unpaid property taxes where, due to an error in the tax collection software, property owners who owe such taxes have not been notified of a delinquency, and, if so, how? (Lee)
- 11-201** Is a California charter school and its board or 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, *also see* 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)
- 12-401** To facilitate compliance with *Brady v. Maryland*, may the California Highway Patrol lawfully release to the district attorney's office the names of officers who have sustained complaints of dishonesty or moral turpitude conduct, with no information other than the officer's name and date of earliest conduct, so that the district attorney may bring a *Pitchess/Brady* motion for in camera review of the officers' personnel files? Does Penal Code section 832.7, subdivision (a), authorize the district attorney to routinely review the personnel files of peace officers who will be prosecution witnesses? (Lee)
- 12-409** Whether a private attorney acting as a contract city attorney can 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 same 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)

- 13-202** Are the uniform standards developed by the Substance Abuse Coordination Committee for use by healing arts boards in dealing with their substance-abusing licensees valid, enforceable, and mandatory? (Lee)
- 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)
- 13-901** Are reverse cellular phone kiosks "secondhand dealers" within the meaning of Business and Professions Code section 21626? (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)
- 13-904** Does state law preempt a local ordinance that would require dentists in that jurisdiction to provide their patients with a Dental Materials Fact Sheet and Statement of Rights before performing specified procedures? (Eisenberg)
- 13-1101** May a county clerk charge the district attorney's office for certified court records? (Medeiros)
- 13-1202** Are medical assistants legally permitted to perform basic pulmonary function testing, such as spirometry? (Daniels)
- 13-1203** May health care professionals offer online discounts for their services through a third-party internet marketer? (Medeiros)
- 14-101** 1. Does the Administrative Procedure Act authorize an individual who is not an active member of the California State Bar to represent a party in an administrative proceeding conducted by the Office of Administrative Hearings? 2. Does 20 USC 1415(h)(91), its implementing regulations, or Education Code section 56505 authorize an individual who is not an active member of the California State Bar to represent a party in a "due process hearing"? (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)

- 14-302** Under the Brown Act open meetings law, may a community college board of trustees meet in closed session to discuss and negotiate the terms of a project labor agreement? (Daniels)
- 14-304** Under state law, may local authorities restrict parking on public streets to those persons issued residential parking permits? (Russell)
- 14-307** May an automated photographic enforcement system (AES) be used to detect and enforce violations of the anti-gridlock law (Veh. Code section 22526) at intersections where an AES is otherwise authorized? (Binsacca)
- 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)
- 14-603** Are the City of Fortuna's dog licensing ordinances authorized under state law? (Daniels)
- 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)
- 14-902** Must licensed subcontractors "pre-qualify" for school district projects under Public Contracts Code section 20111.6? (Medeiros)
- 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 county to cover county's costs for inspecting and reporting on Caltrans surface mining operations within the county? (Russell)
- 15-101** May Prison Industry Authority deposit funds in a commercial bank account not subject to immediate access or control by other state agencies? (Binsacca)

CONCLUSIONS OF OPINIONS ISSUED IN FEBRUARY 2015

No opinions were issued in February.

OPINIONS CANCELLED IN FEBRUARY 2015

14-601 Withdrawn 2/17/15

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

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