

# MONTHLY OPINION REPORT

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### OPINION UNIT

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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.

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 FEBRUARY 2019

**19-201** requested by Assemblymember Reginald Byron Jones-Sawyer concerning the following question:

Should a 1997 Attorney General Opinion reportedly being used to limit trespass enforcement on Indian lands be reconsidered? (Assigned to Deputy Attorney General Anyia M. Binsacca.)

**19-203** requested by Senator Brian W. Jones concerning the following question:

Is there a statutory or constitutional exception for non-profit religious organizations conducting employee criminal background checks under Labor Code section 432.7(a)? (Assigned to Deputy Attorney General Anyia M. Binsacca.)

**OPINIONS PENDING**  
**Opinion Requests**

- 19-203** Is there a statutory or constitutional exception for non-profit religious organizations conducting employee criminal background checks under Labor Code section 432.7(a)? (Binsacca)
- 19-201** Should a 1997 Attorney General Opinion reportedly being used to limit trespass enforcement on Indian lands be reconsidered? (Binsacca)
- 18-1001** Is a county animal shelter permitted to refuse to relinquish an owner-surrendered dog to a nonprofit no-kill shelter? (Medeiros)
- 18-902** When a subdivider owns one parcel and subdivides that parcel pursuant to a parcel map, then sells off the resulting new subdivided parcels, and subsequently acquires a contiguous parcel and seeks to divide that parcel pursuant to a parcel map, should the local agency count the previously subdivided contiguous parcels as part of the application? (Medeiros)
- 18-901** 1. Is the Bagley-Keene Act violated if the Commission votes on an agenda item where the agenda states only that the matter will be discussed, not specifically that the Commission would take any action on the item, but the top of the agenda contains a general statement that the Commission may act on any item listed on the agenda? 2. Is the Bagley-Keene Act violated if a majority FPPC Commissioners meet outside a public meeting (e.g., over lunch) and talk about how the Bagley-Keene Act applies to the FPPC? 3. Is the Bagley-Keene Act violated if one member of the public sends an email to five FPPC Commissioners and other members of the public and one Commissioner responds by email, but only to the members of the public? (Daniels)
- 18-603** Does a county superintendent of education's "stay and rescind" authority permit the stay of sale or issuance of bonds by a school district with a qualified or negative certification? (Ed. Code sec. 42127.6.) May such a stay remain in place pending resolution of a related investigation by the District Attorney? (Binsacca)
- 18-502** Do nuisance abatement liens expire after 10 years; if so, what is the procedure and effective date for renewal? (Bidart)
- 18-501** Are public benefit corporations exempt from the document transfer tax? (Binsacca)
- 18-304** Are the positions of offices of county supervisor, member of a local transportation commission, and/or member of a multi-agency joint powers agency established to provide public transportation services incompatible public offices? (Daniels)
- 18-303** How is recordation of maps and surveys to be treated under SB 2? (Binsacca)
- 18-201** Is it a Brown Act violation for joint powers authority members to consult appointing authority in open session? (Bidart)
- 18-103** Does Penal Code section 919(b) require the civil grand jury to annually investigate local detention centers as "public prisons"? (Bidart)
- 17-1101** Are the offices of Riverbank City Mayor and Stanislaus Consolidated Fire District Director compatible? (Eisenberg)

- 17-701** What are the proper uses of civil enforcement penalty funds collected under the Unfair Competition Law? (Medeiros)
- 17-602** May a city condition its grant of a land developer's application for a "density bonus" (see Gov. Code, section 65915) on the developer's payment of a public benefit fee? (Binsacca)
- 17-202** Does state law preempt the enforcement of a county ordinance that declares "intentionally killed and left standing trees" to be a public nuisance? (Bidart)
- 17-101** May a city validly set health and welfare benefits for its city council members at a dollar amount equal to a set percentage of the benefits provided to the city's highest-income employee group, and, if not, what are the consequences of overpayment? (Bidart)
- 16-402** Must specified prior offenders receive a formal pardon from the Governor in order to obtain a "certificate of rehabilitation and pardon" and qualify for a classified employment position at a school or community college district? (Eisenberg)
- 16-301** May a water district provide retirement contributions to members of its governing board without violating statutory compensation limits? (Medeiros)
- 16-201** May a local jurisdiction require a subdivision applicant to eliminate the designation of a remainder parcel on a tentative parcel map, or require an applicant to provide additional analysis of a remainder parcel that has already been approved for development? (Eisenberg)
- 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)
- 15-301** 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)
- 14-202** May the "premium" generated from a school district bond sale be used to pay for expenses of issuance and other transaction costs? (Medeiros)

### **Quo Warranto Matters**

- 18-1103** Does Ridgecrest city council member reside within city boundaries? (Daniels.)
- 18-301** Are the offices of Vineland School District Board member and Lamont Public Utilities District Board member compatible? (Bidart)
- 18-203** Is the defendant properly serving on the Santa Barbara County Association of Governments governing board? (Medeiros)
- 18-202** Are defendants lawfully serving on the Fresno County Employees Retirement Board? (Daniels)
- 17-603** Are Deanna Jackson and Matthew Hurley eligible to hold seats on the Atwell Island Water District Board of Directors? (*On hold pending litigation.*) (Daniels)

**CONCLUSIONS OF OPINIONS ISSUED IN FEBRUARY 2019**

No matters were issued in February.

**OPINIONS CONCLUDED IN FEBRUARY 2019**

*(Answered by Letter, Withdrawn or Cancelled)*

No matters were concluded in February.

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

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