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OPINION	:	No. 12-602
of	:	December 18, 2012
KAMALA D. HARRIS Attorney General	:	
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THE COSTA MESA SANITARY DISTRICT and individuals BOB OOTEN, JIM FERRYMAN, MIKE SCHEAFER, and ART PERRY, as Relators, have requested leave to sue in quo warranto on the following question:

May Jim Fitzpatrick simultaneously serve as a member of the Board of Directors of the Costa Mesa Sanitary District and as a member of the Planning Commission of the City of Costa Mesa?

CONCLUSION

Whether the offices of director of the Costa Mesa Sanitary District and commissioner of the Costa Mesa Planning Commission are incompatible, and whether Jim Fitzpatrick has therefore forfeited his office as sanitary district director, present substantial questions of fact and law warranting judicial resolution. Accordingly, the application for leave to sue is GRANTED.

ANALYSIS

In or around November 2009, Jim Fitzpatrick was appointed by the City Council of Costa Mesa to a seat on Costa Mesa's five-member Planning Commission (the Planning Commission or Commission). A year later, while he was still serving as a planning commissioner, Mr. Fitzpatrick was elected to a four-year term on the board of directors of the Costa Mesa Sanitary District (the Sanitary District or District). He was sworn in as a director on December 3, 2010, and has served as a director of the Sanitary District ever since. On January 4, 2011, Mr. Fitzpatrick was reappointed to the Planning Commission for a new, four-year term. On May 15, 2012, he resigned from the office of planning commissioner.[1] Thus, from December 3, 2010, until May 15, 2012, Mr. Fitzpatrick served on the governing boards of both agencies. We are asked whether, in light of these events, he lawfully holds the seat he currently occupies on the board of the Sanitary District.

The Sanitary District and individuals Bob Ooten, Jim Ferryman, Mike Scheafer, and Art Perry ("Relators") allege that Mr. Fitzpatrick could not lawfully hold both offices at the same time, and that his acceptance of a reappointment to the Planning Commission in January 2011 therefore resulted in forfeiture of his seat on the Sanitary District. They request our permission to file a quo warranto action in the superior court, pursuant to Code of Civil Procedure section 803, to seek Mr. Fitzgerald's removal from the Sanitary District.

Code of Civil Procedure section 803 states, in pertinent part:

> An action may be brought by the attorney-general, in the name of the people of this state, upon his [or her] own information, or upon a complaint of a private party, against any person who usurps, intrudes into, or unlawfully holds or exercises any public office . . . within this state.

An action filed under this statute is known as a quo warranto action, and is the proper legal avenue for testing title to public office.[2] (The challenged incumbent—Mr. Fitzpatrick, in this case—is ordinarily the named defendant in such an action.) In

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[1] Although planning commissioners are appointed by the Costa Mesa City Council to four-year terms, they serve at the Council's pleasure and may be removed at any time. *See* Costa Mesa Muni. Code (Cal.) § 2-4 (2005).

[2] *See e.g.* 93 Ops.Cal.Atty.Gen. 144 (2010) (sanitary district); 86 Ops.Cal.Atty.Gen. 205 (2003) (board of supervisors); 86 Ops.Cal.Atty.Gen. 194 (2003) (school district board); 85 Ops.Cal.Atty.Gen. 239 (2002) (community services district); 85 Ops.Cal.Atty.Gen. 90 (2002) (city council); 81 Ops.Cal.Atty.Gen. 304 (1999) (city police chief); 76 Ops.Cal.Atty.Gen. 81 (1993) (water district).

determining whether to grant a quo warranto application, the Attorney General does not resolve the merits of the controversy, but rather decides (1) whether the application presents substantial issues of fact or law requiring judicial resolution, and (2) whether granting the application would serve the overall public interest.[3]

Government Code section 1099, enacted in 2005,[4] codifies the common-law rule against holding incompatible offices,[5] the essence of which is set forth in its opening sentence:

> A public officer, including, but not limited to, an appointed or elected member of a governmental board, commission, committee, or other body, shall not simultaneously hold two public offices that are incompatible.[6]

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[3] 86 Ops.Cal.Atty.Gen. at 208-209; 78 Ops.Cal.Atty.Gen. 352, 353 (1995).

[4] 2005 Stat. ch. 254 § 1.

[5] For a discussion of the common-law rule, *see e.g. People ex rel. Chapman v. Rapsey*, 16 Cal. 2d 636, 642 (1940); *People ex rel. Deputy Sheriffs' Assn. v. Co. of Santa Clara*, 49 Cal. App. 4th 1471, 1481 (1996); 81 Ops.Cal.Atty.Gen. 344, 345 (1998).

[6] In its entirety, Government Code section 1099 provides:

> (a) A public officer, including, but not limited to, an appointed or elected member of a governmental board, commission, committee, or other body, shall not simultaneously hold two public offices that are incompatible. Offices are incompatible when any of the following circumstances are present, unless simultaneous holding of the particular offices is compelled or expressly authorized by law:
>
> (1) Either of the offices may audit, overrule, remove members of, dismiss employees of, or exercise supervisory powers over the other office or body.
>
> (2) Based on the powers and jurisdiction of the offices, there is a possibility of a significant clash of duties or loyalties between the offices.
>
> (3) Public policy considerations make it improper for one person to hold both offices.
>
> (b) When two public offices are incompatible, a public officer shall be deemed to have forfeited the first office upon acceding to the second. This provision is enforceable pursuant to Section 803 of the Code of Civil Procedure.
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> (c) This section does not apply to a position of employment, including a civil service position.
>
> (d) This section shall not apply to a governmental body that has only

While Government Code section 1099 now governs the question of incompatible offices in California,[7] our construction and application of the statute are guided by administrative and judicial interpretations developed under the common law.[8]

Government Code section 1099 and common-law precedent dictate that a person may not simultaneously hold two public offices if there is any significant clash of duties or loyalties between the offices; if the dual office holding would be improper for reasons of public policy; or if either office exercises a supervisory, auditing, or removal power over the other.[9] The prohibition applies only when each position is a "public office," not merely "a position of employment;"[10] and only in the "absence of statutes suggesting a contrary result."[11]

When a person is found to be holding incompatible offices, she or he can no longer occupy both, and is deemed to have forfeited the first office upon accepting the second.[12] Here, if the two positions held by Mr. Fitzpatrick are determined to be incompatible public offices, the leap-frog chronology of his service would mean that he has *twice* forfeited a public office. First, his taking the oath of office as a director for the

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advisory powers.

(e) For purposes of paragraph (1) of subdivision (a), a member of a multimember body holds an office that may audit, overrule, remove members of, dismiss employees of, or exercise supervisory powers over another office when the body has any of these powers over the other office or over a multimember body that includes that other office.

(f) This section codifies the common law rule prohibiting an individual from holding incompatible public offices.

[7] 89 Ops.Cal.Atty.Gen. 152 (2006).

[8] In an uncodified portion of the 2005 legislation enacting Government Code section 1099, the Legislature declared that section 1099 was "not intended to expand or contract the common law rule," and that judicial interpretations "shall be guided by judicial and administrative precedent concerning incompatible public offices developed under the common law." 2005 Stat. ch. 254 § 2.

[9] Govt. Code § 1099(a); *see also People ex re. Chapman v. Rapsey*, 16 Cal. 2d 636; 81 Ops.Cal.Atty.Gen. at 345.

[10] Govt. Code § 1099(c); *see also* 58 Ops.Cal.Atty.Gen. 109, 111 (1975).

[11] 38 Ops.Cal.Atty.Gen. 113, 113 (1961); *see also* Govt. Code § 1099(a); 81 Ops.Cal.Atty.Gen. at 345; 78 Ops.Cal.Atty.Gen. 60, 62-63 (1995).

[12] Govt. Code § 1099(b); *People ex rel. Chapman v. Rapsey*, 16 Cal. 2d at 644; *see also* 3 McQuillin, *Municipal Corporations* § 1267, 367 (3d ed. 2001).

Sanitary District in December 2010 would have worked a forfeiture of his seat on the Planning Commission.[13] Second, his acceptance of a reappointment to the Planning Commission in January 2011 would have worked a forfeiture of his seat on the Sanitary District.

In any event, the primary question for us to resolve is whether the doctrine of incompatible offices applies in Mr. Fitzpatrick's circumstances. To that end, the first issue to consider is whether the two offices involved here are "public offices" for purposes of section 1099. We conclude that they are, and we believe that protracted discussion on this score is unnecessary. The two positions at issue—member of a planning commission and director of a sanitary district—have been analyzed in several of our previous opinions, and we have repeatedly concluded that both of these posts are public offices for purposes of the doctrine of incompatible offices.[14]

We next consider whether there is (or was) a potential for any significant conflict or clash of interests or loyalties between the offices. In order to evaluate that question, we need to examine the duties and powers of each office.

The Sanitary District was formed in 1944 under the Sanitary District Act of 1923,[15] with its principal offices in Costa Mesa (Orange County). The entire City of Costa Mesa (City) is included within the District's boundaries, as are portions of unincorporated Orange County and the City of Newport Beach.[16] The District's authority includes the power to sue and be sued;[17] to acquire, construct, maintain, and operate garbage collection and disposal systems, sewer systems, sewage treatment facilities, storm drains, and water

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[13] Even if the post as planning commissioner was forfeited in December 2010, the official acts taken as commissioner would be presumptively valid and binding, insofar as third parties are concerned, under the "*de facto* officer" doctrine. *See e.g. Marine Forests Society v. California Coastal Com.*, 36 Cal. 4th 1, 54 (2005); *County of Los Angeles v. California State Water Resources Control Bd.*, 143 Cal. App. 4th 985, 1000 (2006); *Fair Political Practices Com. v. Californians Against Corruption*, 109 Cal. App. 4th 269, 276 (2003).

[14] *See e.g.* 93 Ops.Cal.Atty.Gen. 144 (sanitary district director); 84 Ops.Cal.Atty.Gen. 91 (2001) (city planning commissioner); 82 Ops.Cal.Atty.Gen. 68 (1999) (same); 79 Ops.Cal.Atty.Gen. 155 (1996) (same); 66 Ops.Cal.Atty.Gen. 293 (1988) (city and county planning commissioners); 41 Ops.Cal.Atty.Gen. 98 (1963) (sanitary district director).

[15] Health & Saf. Code §§ 6400-6830; *cf.* Health & Saf. §§ 4700-4858 (county sanitary districts).

[16] *See* http://www.cmsdca.gov/ (Costa Mesa Sanitary District website).

[17] Health & Saf. Code § 6511.

recycling and distribution systems;[18] to acquire, lease, and dispose of property;[19] to enter into contracts;[20] to pay claims;[21] to compel residents and property owners to connect their structures with the District's sewers and storm drains and to use the District's garbage collection and disposal systems;[22] to prescribe and collect charges for services and facilities;[23] and to enact regulations and ordinances.[24] The District owns property and operates extensive facilities within City boundaries, all of which are subject to the City's general plan. These include the district office and headquarters; a storage yard for district vehicles and equipment; twenty sewage pumping stations; many miles of sewer lines; and more than 4,000 manholes providing sewer access. The District also serves Costa Mesa's governmental offices, parks, and other facilities, including the offices occupied by the Planning Commission and its staff.

The Planning Commission was created to prepare and implement Costa Mesa's general plan, carry out its planning functions, and advise the City Council on matters concerning long-term community growth and development. The Commission has been delegated the powers necessary to administer the state's zoning and planning laws, and its responsibilities include monitoring other public agencies' compliance with the City's general plan and with any applicable specific plans—including the location and operation of those agencies' facilities, and their applications for zoning variances, conditional use permits, and other non-conforming land uses.[25]

As may be inferred from these descriptions, there are myriad possibilities for influence and exchange between a planning commission and a local district that lies within the planning commission's territory. In a previous opinion concerning a planning commission's authority with respect to a school district, we observed:

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[18] Health & Saf. Code §§ 6512(a), 6518, 6518.5.

[19] Health & Saf. Code §§ 6514, 6514.1.

[20] Health & Saf. Code § 6515.

[21] Health & Saf. Code § 6516.

[22] Health & Saf. Code § 6520.

[23] Health & Saf. Code § 6520.5.

[24] Health & Saf. Code §§ 6521, 6491.3. *See e.g. Home Gardens Sanitary Dist. v. City of Corona*, 96 Cal. App. 4th 87, 89-92 (2002); *West Bay Sanitary Dist. v. City of East Palo Alto*, 191 Cal. App. 3d 1507, 1510 (1987); *Ambrosini v. Alisal Sanitary Dist.*, 154 Cal. App. 2d 720, 724-725 (1957); *see also* 93 Ops.Cal.Atty.Gen. at 147-148.

[25] *See* Costa Mesa Muni. Code (Cal.) § 13-10(g)(1) (2005); *see also* Govt. Code §§ 65100-65103, 65401.

> Both city and county planning commissions are governed by the state planning and zoning law (Gov. Code, §§ 65000-66499.58), and land use activities by a school district are subject to regulation by the city or county in which the district's property is located. Under the state law, the city planning commission in question would be responsible for the preparation and implementation of the city's general plan. (§§ 65103, 65300, 65450.) A general plan includes the location of educational facilities. (§ 65302, subd. (a); 56 Ops.Cal.Atty.Gen. [488, 490 (1973)].) The planning commission is required to review annually the local public works projects of other local agencies for their consistency with the general plan. (§§ 65103, 65401.) Additionally, no local public works project may be approved within an area covered by a specific plan unless it is consistent with the adopted specific plan. (§ 65455.) . . . A planning commission also typically hears and decides whether to grant applications for conditional use permits and variances from zoning ordinances. (§§ 65900-65906.)[26]

We think that similarly significant and numerous potential clashes of interest may arise between a planning commission and a sanitary district. In this case, any modification of the District's services or rates would likely have a direct impact on the City and the Commission.[27] Furthermore, the Commission would have an important role in overseeing any proposed changes in the District's land-use activities, facilities, or services. At the same time, garbage collection plans and sewer connections involving the District would presumably be important components of many development proposals

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[26] 84 Ops.Cal.Atty.Gen. at 92 (footnotes omitted).

[27] Thus, as with the recreation district in 93 Ops.Cal.Atty.Gen. 144, the City and its Commission would be sanitary district rate payers and "consumers" of that district's services:

> [The recreation and park district's] position as a consumer of [the sanitary district's] services and as a [district] rate payer thus creates a high likelihood that the two public agencies will, at least occasionally, be called upon to deal with each other in contexts where their interests will be divergent. In our view, the circumstances here are closely akin to cases in which we have found incompatibility between water services agencies and agencies with which they have a supplier-customer relationship.

(*Id*. at 150.)

submitted to the Commission.[28] It is reasonable to expect that the District and the Commission might experience clashes of interest in cases where such matters arise.

In light of the overlapping jurisdictions of the Commission and the District, and the potential for conflicts of interest between them, we conclude that the two public offices held by Mr. Fitzpatrick from December 2010 until mid-May of 2012 present a "possibility of a significant clash of duties or loyalties between the offices" within the meaning of Government Code section 1099(a)(2), and that they are therefore incompatible offices under section 1099 and the common-law rule.

Has Mr. Fitzpatrick's Resignation Rendered the Question Moot?

Mr. Fitzpatrick asserts that Relators' quo warranto application should be denied because it was rendered moot by his May 2012 resignation from the Planning Commission. He argues that there can no longer be any issue of incompatible offices now that he occupies only *one* office—namely, his Sanitary District directorship. In our view, however, there is still a question as to whether Mr. Fitzpatrick lawfully holds the office of District director. This is so because a person who unlawfully holds two incompatible offices is not generally considered free to choose which office to retain; rather, the first office is ordinarily considered forfeited as a result of the person having accepted the second office.[29]

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[28] *See e.g. Arviv Enterprises, Inc. v. South Valley Area Planning Com.*, 101 Cal. App. 4th 1333, 1339-1348 (2002) (planning commission considers development's sewer system design and trash collection plan); *Citizens Assn for Sensible Development of Bishop Area v. County of Inyo*, 172 Cal. App. 3d 151, 172 (1985) (sewage disposal a matter for planning commission's consideration); *Transcentury Properties, Inc. v. State of California*, 41 Cal. App. 3d 835, 840 (1974) (proposed sewage plant subject to planning commission approval); *cf. Dateline Builders, Inc. v. City of Santa Rosa*, 146 Cal. App. 3d 520, 528-531 (1983) (city may use sewer hookups as planning device to limit growth); *Hamilton v. Harkins*, 146 Cal. App. 2d 566, 570-571 (1956) (city liable for faulty planning and locating of sewer line).

[29] We frequently refer to this forfeiture as an "automatic resignation." *See e.g.* 85 Ops.Cal.Atty.Gen. 60, 61 (2002) (acceptance of second office "constitutes an automatic resignation from the first office"). The California Supreme Court has similarly described the forfeiture of an incompatible office as a "resignation" of that office, as well as a "vacating" and "terminating" thereof:

> The common law rule is that the acceptance by a public officer of another office which is incompatible with the first thereby vacates the first office; that is, the mere acceptance of the second incompatible office per se terminates the first office as effectively as a resignation.

In other words, if Mr. Fitzpatrick's reappointment to the Commission in January 2011 effected a forfeiture of his District directorship, as Relators allege, then the lawfulness of his continued occupation of that office is still in doubt. Accordingly, quo warranto remains a viable mode of procedure.

Has the Legislature Abrogated the Incompatibility Doctrine Here?

We next address Mr. Fitzpatrick's argument that the Legislature, through enactment of Health and Safety Code section 6480(b), has abrogated the incompatibility doctrine with respect to the two offices in question here, thereby permitting a single person to hold both offices.

It is well settled that the common-law prohibition against holding incompatible offices may be abrogated by the Legislature whenever it chooses.[30] This discretion is reflected in Government Code section 1099, which states that public offices that present potential conflicts of duties and interests are incompatible "unless simultaneous holding of the particular offices is compelled or expressly authorized by law."[31] We are not persuaded, however, that Health and Safety Code section 6480(b) is sufficient to abrogate the rule in this case.

Health and Safety Code section 6480(b) provides:

> Any member of *the* legislative body of a city whose territory is encompassed, in whole or in part, by the boundaries of the [sanitary] district is not disqualified from holding office as a member of the [sanitary district's] board solely because of his membership on *such* legislative body.[32]

This provision plainly authorizes the simultaneous holding of two potentially incompatible offices. But, in our view, the authorization extends only to city council

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People ex rel. Chapman v. Rapsey, 16 Cal. 2d at 644 (quoting McQuillin, *Municipal Corporations*, vol. 2, § 469 (2d ed. 1943)).

[30] *See Am. Canyon Fire Protection Dist. v. Co. of Napa*, 141 Cal. App. 3d 100, 104 (1983); *McClain v. Co. of Alameda*, 209 Cal. App. 2d 73, 79 (1962); 88 Ops.Cal.Atty.Gen. 130 (2005); 82 Ops.Cal.Atty.Gen. 201, 204 (1999); 81 Ops.Cal.Atty.Gen. at 345-346; 78 Ops.Cal.Atty.Gen. at 62-63. We have also concluded that a charter city may abrogate the common-law rule by appropriate legislation. *See* 73 Ops.Cal.Atty.Gen. 357, 360-361 (1990); 66 Ops.Cal.Atty.Gen. at 296-297.

[31] Govt. Code § 1099(a) (emphasis added).

[32] Emphasis added.

members, not to planning commissioners. Ordinarily, the legislative body of a city is the body that governs the city—that is, its city council.[33] Although a court might read the statute differently, we think that the Legislature's choice of the term "*the* legislative body of a city"—rather than, say, "*a* legislative body of a city" or "one of the legislative *bodies* of a city"—means that this provision applies only to city council members, and not to those serving on the legislative body of a subordinate city agency such as a planning commission. The Legislature's use of the article "the" in this context, coupled with the singular noun "legislative body," suggests to us that there is only one such body, while, in contrast, use of the article "a" with that noun would suggest that several such bodies might exist.[34]

Our conclusion finds further support, we think, in the latter part of Health and Safety Code section 6480(b). The last five words of that provision speak of "membership on *such* legislative body." This language connotes to us a single body—rather than, for example, "*such a* legislative body," or "such legislative *bodies,*" which would more naturally suggest a variety of legislative bodies within city government.[35]

Mr. Fitzpatrick suggests that such technical interpretations should not be applied here because both policy and logic favor extending abrogation to planning commissioners, noting that the city council created and appointed the Commission in the first place and that the planning agency's functions may be performed by the city council itself.[36] But, no matter how persuasive this reasoning may be, we believe that it is for the

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[33] Government Code § 50002 provides:

> "Legislative body" as used in [tit. 5, div. 1: "Cities and Counties"], means board of supervisors in the case of a county or city and county, and city council or board of trustees in the case of a city, unless the context otherwise requires.

See also e.g. Govt. Code § 34000 (legislative body means "governing body of a city"); Health & Saf. Code § 33007; *Long Beach Community Redevelopment Agency v. Morgan*, 14 Cal. App. 4th 1047, 1052 (1993) ("The legislative body of a city is generally its city council."); 69 Ops.Cal.Atty.Gen. 25, 26 (1986) (city council is city's legislative body).

[34] *See Estate of Shafer v. Carr*, 269 Cal. App. 2d 538, 544-545 (1969); *cf. Kotlar v. Hartford Fire Ins. Co.*, 83 Cal. App. 4th 1116, 1121 (2000) (same inference may not be drawn where Legislature specifically directs that singular should be read to include plural and vice versa).

[35] *See* Garner, *A Dictionary of Modern Legal Usage* 526-527 (1987) ("such" as a "demonstrative adjective to modify a singular noun"); *Fowler's Modern English Usage* 602 (2d ed., 1965) (the "defining *such*").

[36] *See* Govt. Code § 65100.

Legislature, not for us, to determine when it is necessary or appropriate to permit a single person to hold two or more incompatible offices,[37] and that we are not at liberty to extend such permission when the statute itself does not.[38] In any case, we recognize that the issue presents a legal question substantial enough to call for judicial resolution.

Would Granting the Application Serve the Public Interest?

As a general rule, we view the existence of a substantial question of fact or law as presenting a sufficient "public purpose" to warrant the granting of leave to sue. Once such questions have been established, we deny leave only when there are countervailing considerations. We perceive none here.

Mr. Fitzpatrick proffers two reasons why, in his view, the instant application should be denied. First, he objects to the motives of the individual Relators (the other four Sanitary District directors), claiming that they seek his removal because he has publicly criticized certain actions they have taken as directors. Second, he argues that that the District itself is not a proper relator because standing to bring a quo warranto action is accorded only to individuals, not to public agencies.

We have previously addressed assertions of improper motives in other quo warranto cases, and we have repeatedly determined that such a claim, even if proven, would not be a valid basis for us to prevent an otherwise substantial question from being heard by a court. If it appears to us that a proposed action advances the public's legitimate interest in being served by duly qualified public officers, we think it immaterial that an applicant may have mixed motives in raising the question.[39] Similarly,

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[37] Govt. Code § 1099(a).

[38] *See e.g.* 85 Ops.Cal.Atty.Gen. at 241-242 (statute's abrogation for irrigation district directors does not extend to water district directors); 84 Ops.Cal.Atty.Gen. at 98 ("While the Legislature has abrogated the incompatible offices rule with respect to the offices of fire protection district director and LAFCO [local agency formulation commission] commissioner, it has not done so for the offices of city fire chief and LAFCO commissioner.")

[39] In rejecting a similar objection in 86 Ops.Cal.Atty.Gen. at 209, we observed:

> Defendant asserts that granting Relators' application would not be in the public interest because Relators have improper, private motives for filing their application. However, "[w]e normally do not attempt to assess the motivation of individual relators." (75 Ops.Cal.Atty.Gen. [112, 116 (1992).] Regardless of Relators' purposes in filing their application, we are concerned with ensuring that all public officials have undivided loyalties when performing their public duties. (*City of Campbell v. Mosk* (1961) 197 Cal.App.2d 640, 648-650; *see also*, 82 Ops.Cal.Atty.Gen. 74, 77 (1999);

our determinations are generally unaffected by evidence that an incumbent acted in good faith in occupying two offices simultaneously, or that the incumbent has discharged the duties of both offices with honor and diligence.[40]

As for the question of the District's standing, we do not share such a restrictive interpretation of the statute. Mr. Fitzpatrick relies on the introductory language of Code of Civil Procedure section 803, which provides that an action may be brought by the Attorney General on his or her own initiative "or upon a complaint of a private party . . . ." However, we and the courts have recognized a city's right to bring a quo warranto action under section 803,[41] and we have consistently construed section 803 as providing "that a public official or agency may qualify as a relator."[42] We conclude that the District may properly apply for leave to sue here.

In summary, we conclude that Relators' application raises substantial questions of fact and law meriting judicial resolution, and that the proposed action in quo warranto would serve the overall public interest in ensuring that public officials avoid conflicting loyalties when performing their public duties. Accordingly, Relators' application for leave to sue in quo warranto is GRANTED.

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Ops.Cal.Atty.Gen. 1, 4 (1993); 76 Ops.Cal.Atty.Gen. 38, 44 (1993); 75 Ops.Cal.Atty.Gen., *supra*, at p. 117.)

[40] *See e.g.* 93 Ops.Cal.Atty.Gen. at 150, n. 35 (in granting applications, we do not doubt defendants' good will, and "we emphasize that our conclusions do not impugn the integrity and good faith of [the defendants] or of the boards on which [they serve]").

[41] In *San Ysidro Irr. Dist. v. Super. Court,* 56 Cal. 2d 708, 715-716 (1961), the Supreme Court recognized a city's right to seek permission to bring a quo warranto action pursuant to section 803, and similar recognition was given by the Court of Appeal in *City of Campbell v. Mosk*, 197 Cal. App. 2d 640, 644-645 (1961). In 35 Ops.Cal.Atty.Gen. 214, 216 (1960), we granted the request of the City of Downey, acting through its attorneys, to bring a quo warranto action under section 803.

[42] 76 Ops.Cal.Atty.Gen. 157, 163 (1993) (city attorney). *See also e.g.* 93 Ops.Cal.Atty.Gen. 144 (2010) (rental housing owners' association); 73 Ops.Cal.Atty.Gen. 183 (1990) (school district).