



The State Bar of California

OPEN SESSION AGENDA ITEM 704 JANUARY 2020

DATE: January 24, 2020

TO: Members, Board of Trustees

FROM: Vanessa Holton, General Counsel

SUBJECT: Exemption to CalPERS 180-Day Wait Period for Appointment of Diane Blackmon as a Retired Annuitant under Government Code Section 21224

EXECUTIVE SUMMARY

To comply with California Public Employee Retirement System (CalPERS) requirements, Board of Trustees action is required to waive the 180-day waiting period for the State Bar to appoint as a retired annuitant a former employee retired under CalPERS, within six months of that individual's retirement date. After over 27 years of service, Diane Blackmon retired as a Program Coordinator from the Judicial Nominees Evaluation Office, effective December 31, 2019. Ms. Blackmon has unique institutional knowledge and specialized skills needed for operational continuity; thus, the State Bar seeks interim short-term assistance from Ms. Blackmon immediately after her retirement and through the transition process.

BACKGROUND

The State Bar of California participates in the CalPERS retirement system. A CalPERS retiree can be appointed to work for the former employer as a retired annuitant. Under pension reform standards (see Government Code sections 7522.56 and 21224), the retired individual to be appointed must meet the following standards:

1. The individual must have specialized skills needed to perform work of limited duration,
2. The individual cannot work more than 960 hours in a fiscal year (July 1 – June 30),
3. The contracted compensation rate cannot be less than the minimum nor exceed the maximum paid to other employees, if any, performing comparable duties,

4. Compensation must be limited to wage rates set forth above and not take the form of other nonwage benefits,
5. The individual cannot have received unemployment insurance benefits for prior retired annuitant work,
6. The individual cannot work as a retired annuitant within six months following his or her retirement date unless the governing Board of the contracting entity certifies to a critical need for the individual's skills within this six month period, as set forth in the resolution passed during public session, which must then be filed with CalPERS, and
7. The individual must be the normal retirement age or older at the time of retirement.

DISCUSSION

Ms. Blackmon has worked for the State Bar since June 1991. For the 16 years preceding her retirement, she served in the office providing staff support to the Judicial Nominees Evaluation (JNE) Commission. Ms. Blackmon's most recent position prior to her retirement was a Program Coordinator. In this role, she worked closely with JNE leadership, advising them on a wide variety of issues ranging from judicial candidate assignments to the application of State Bar rules governing the JNE commission. Ms. Blackmon also works with the Governor's Judicial Appointments Unit and fields special requests from the Governor. During her long tenure, Ms. Blackmon developed a breadth of knowledge regarding the JNE commission that does not exist in any other individual employed by the State Bar. Ms. Blackmon's unique knowledge and specialized skills will be instrumental in helping the Judicial Nominees Evaluation Office maintain continuity of operations during the transition period following her retirement even after her prior position is filled.

As a result of Ms. Blackmon's highly specialized and relevant set of skills and experience, she is the most qualified to provide extra help required to support the JNE Commission and its continued operations. Accordingly, the State Bar seeks to appoint Ms. Blackmon before 180 days lapses from her retirement date.

Because of CalPERS restrictions on contracting with a CalPERS retiree, the State Bar is seeking a Board resolution certifying the critical need to appoint Ms. Blackmon as a retired annuitant within six months of her retirement date, as required by CalPERS under Government Code sections 7522.56 and 21224. The resolution recommended for this Board is set forth in Attachment A.

FISCAL/PERSONNEL IMPACT

Ms. Blackmon's hourly rate of pay as a retired annuitant would be \$46.10. Staff does not anticipate that Ms. Blackmon's retired annuitant appointment will have any significant impact on the State Bar's finances.

AMENDMENTS TO RULES OF THE STATE BAR

None

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & OBJECTIVES

Goal 3: Improve the fiscal and operational management of the State Bar, emphasizing integrity, transparency, accountability, and excellence.

Objective b: Improve staff morale and career satisfaction through recognition of performance, career path development, transparent and collaborative communication, and recognition and encouragement of innovation, efficiencies, and money saving ideas.

RECOMMENDATIONS

Should the Board of Trustees concur in the proposed action, passage of the following resolution is recommended:

RESOLVED, that the Board of Trustees adopts the resolution set forth in Attachment A and certifies there is a critical need to appoint Ms. Blackmon as a retired annuitant prior to the 180-day CalPERS waiting period.

ATTACHMENT(S) LIST

- A.** Resolution for Exception to the 180-Day Wait Period, Government Code sections 7522.56 and 21224

**RESOLUTION
JANUARY 24, 2020**

**RESOLUTION FOR EXCEPTION TO THE 180-DAY WAIT PERIOD
GC sections 7522.56 and 21224**

WHEREAS, in compliance with Government Code sections 7522.56 and 21224, the State Bar of California Board of Trustees must provide CalPERS this certification resolution when hiring retirees before 180 days has passed since their retirement date; and

WHEREAS, Diane Blackmon retired under CalPERS as a Program Coordinator effective December 31, 2019; and

WHEREAS, Government Code sections 7522.56 and 21224 prohibit the appointment of a CalPERS retiree as a retired annuitant earlier than 180 days after their retirement date without a certification resolution, such as this; and

WHEREAS, Government Code sections 7522.56 and 21224 provide that a certification resolution will not waive the 180-day wait period if the retiree has received any unemployment insurance benefits; and

WHEREAS, Ms. Blackmon certifies that she has not and will not receive any unemployment insurance benefits; and

WHEREAS, the State Bar of California's Board of Trustees and the State Bar of California certify that there is a critical need to hire Ms. Blackmon as a retired annuitant within 180 days of her December 31, 2019, retirement date to provide extra help to the Judicial Nominees Evaluation Commission; and

WHEREAS, no matters, issues, terms or conditions related to this appointment as a retired annuitant have been or will be placed on a consent calendar; and

WHEREAS, the appointment as a retired annuitant shall be limited to 960 hours per fiscal year; and

WHEREAS, the compensation paid to the retiree is equal to the monthly base salary (\$7792.25) paid to State Bar employees performing comparable duties (Program Coordinators), divided by 173.333 to equal the hourly rate; and

WHEREAS, the hourly rate paid to Ms. Blackmon for her work as a retired annuitant will be \$46.10 per hour; and

WHEREAS, Ms. Blackmon has not and will not receive any other benefit, incentive, or compensation in lieu of benefits or other form of compensation in addition to this hourly pay rate; and

THEREFORE, BE IT RESOLVED THAT the State Bar of California Board of Trustees hereby certifies the nature of the appointment as described herein and that this appointment is necessary to perform critically needed duties for the State Bar of California beginning January 27, 2020.