

AGENDA ITEM

702 December 12, 2013

DATE: December 12, 2013

TO: Members, Board of Trustees

FROM: Robert A. Hawley, Deputy Executive Director

SUBJECT: Conforming Amendments to Employee Rules

EXECUTIVE SUMMARY

Before the Board at this meeting is Agenda Item DECEMBER 701 which seeks Board ratification of amendments to the Union Memoranda of Understanding (MOU's) for 2014-16. This item, DECEMBER 702, seeks to conform the Rules & Regulations Pertaining to the Employment of Confidential Employees (Confidential Employee Rules) and the Rules & Regulations Pertaining to the Employment of Executive Staff (Executive Staff Rules) to the changes in CalPERS retirement contributions that were negotiated by the Union for Union Bargaining Unit employees. Assuming the Board ratifies the MOU amendments for Bargaining Unit employees, these changes are appropriate for Confidential and Executive Staff to assure consistency in administration of the CalPERS retirement benefit and to assure salary and benefit parity within the institution. IF YOU HAVE SUBSTANTIVE QUESTIONS PLEASE CONTACT ROBERT HAWLEY 415-538-2277 or Robert.Hawley@calbar.ca.gov.

BACKGROUND

The terms and conditions of employment for Confidential Employees employed by the State Bar of California are established by the Confidential Employee Rules and for Executive Staff by the Executive Staff Rules, adopted by the Board of Trustees and administered by the Executive Director. These rules were amended in 2004, 2005 and 2006 to conform to the MOU's then negotiated to provide that the employee annual contribution to CalPERS retirement that was then in the form of a deduction from employee salary approximating 7% of gross wages, be shifted to the State Bar in 3 increments 2.5%, 2.5% and 2%, in lieu of salary increases for the years designated.

In 2013, the Legislature passed, at the behest of the Governor, the Public Employee Pension Reform Act (PEPRA), which mandated that Employer Paid Member Contributions (EPMC) be shifted back to employees as a wage deduction. This was to be effective in January 2013, unless a union agreement was in place, which it was here at the State Bar giving us until January 2014 to comply.

PEPRA conceivably allows on-going employees to continue to benefit from EPMC, while mandating that newly hired employees pay their own contributions. Rather than creating a divisive two-tier system here, the State Bar proposed to the Union and the Union has agreed in

the Tentative Agreement before the Board for ratification, that all Bargaining Unit employees, ongoing and newly hired, pay their 7% of salary employee contribution.

This item seeks conforming amendments to the Confidential Employee and Executive Staff Rules to allow consistency in the administration of contributions to CalPERS.

The MOU negotiations also provide for a 7% increase in employee salary range to cover this shift of CalPERS contributions to employees. This is because the original "pick up" of EPMC by the State Bar was in lieu of salary increases for the years in question. The Executive Director intends to adjust Confidential Employee and Executive Staff salary ranges in like manner to maintain salary parity. This is within the discretion of the Executive Director under the governing rules.

ISSUE

Should the Board of Trustees amend the Rules & Regulations Pertaining to the Employment of Executive Staff and the Rules and Regulations Pertaining to the Employment of Confidential Employees to conform to the principle of the negotiated Memoranda of Understanding shifting to Employees the employee contribution to the CalPERS retirement system.

CONCLUSION

Staff recommends that the resolution presented here be adopted.

DISCUSSION

This action seeks to maintain wage and benefit parity within the institution and parity with the State Bar's external "bench mark" measures for salaries and benefits. The budget cost is within the budget parameters set by the Board through the budget process. Maintaining parity with the State Bar's public sector "benchmarks" is necessary to the effective operation of the State Bar. Management is, therefore, recommending that this action be taken.

The actual rule amendments will be drafted and approved by the Office of General Counsel, the Office of Human resources and the Office of the Executive Director/Secretary consistent with the proposed Board Resolution.

FISCAL / PERSONNEL IMPACT:

The fiscal impact is within budget. The personnel impact is discussed above.

RULE AMENDMENTS:

The Rules & Regulations Pertaining to the Employment of Executive Staff, Section 27.B [Retirement] and the Rules and Regulations Pertaining to the Employment of Confidential Employees, Section 32.B [Retirement], will be amended to conform to this action.

BOARD BOOK IMPACT:

None.

RECOMMENDATION

It is recommended that the Board of Trustees amend the Rules & Regulations Pertaining to the Employment of Confidential Employees and the Rules & Regulations Pertaining to the Employment of Executive Staff as set forth here.

PROPOSED BOARD OF TRUSTEES RESOLUTION:

Should the Board concur with this recommendation, the following resolution is in order:

RESOLVED, that the Board of Trustees directs staff to amend the Rules & Regulations Pertaining to the Employment of Confidential Employees and the Rules & Regulations Pertaining to the Employment of Executive Staff, effective with the first payroll period in 2014, to shift CalPERS Employer Paid Member Contributions (EPMC) to employees as a deduction from salary; and it is further

RESOLVED, that the Executive Director has existing discretion and authority to increase salary ranges for these employees to offset the 7% salary shift.