

## **AGENDA ITEM**

### **III.E. APRIL 2017**

**DATE:** April 10, 2017

**TO:** Members, Board Executive Committee  
Members, Board of Trustees

**FROM:** Leah T. Wilson, Chief Operating Officer

**SUBJECT:** Update to Executive Rules  
Update to Confidential Rules  
Update to Post-Retirement Welfare Benefits Plan

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#### **EXECUTIVE SUMMARY**

This agenda item requests that the Board Executive Committee authorize revisions to the Executive Rules, Confidential Rules and Post-Retirement Welfare Benefits Plan. Collectively, these amendments serve to advance the implementation of CPS HR Consulting's classification and compensation recommendations, normalize the State Bar work week, and align the rate at which the State Bar contributes to Executive and Confidential staff health care benefits with that of other comparable employers.

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#### **BACKGROUND**

The State Bar retained CPS HR Consulting (CPS HR) to conduct an agency-wide classification and total compensation study for all positions in late 2015. The purpose of the study was to 1) review the State Bar's existing classification structure and recommend modifications as appropriate; and 2) provide salary recommendations for all classifications in the proposed classification structure based on a review of labor market data.

CPS HR surveyed 16 agencies (survey agencies) to develop classification specifications and to obtain base salary and total compensation data<sup>1</sup>. In order to

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<sup>1</sup> Alameda County, Alameda County Superior Court, Judicial Council, City of Anaheim, City of Long Beach, City of Los Angeles, City of Oakland, City of San Jose, City/County of San Francisco, Los Angeles County, Los Angeles County Superior Court, Los Angeles Unified School District, Orange County, San Francisco County Superior Court, Santa Clara County, and State of California, Executive Branch.

compare survey agency and State Bar salaries, CPS HR converted State Bar salaries to reflect a 40-hour work week; unlike the survey agencies<sup>2</sup>, the vast majority of State Bar staff<sup>3</sup> are only required to work 36.25 hours per week<sup>4</sup>.

In addition to illustrating an anomaly in the State Bar work week, the CPS HR total compensation analysis highlighted issues with the Bar's health care benefits cost sharing model, some of which have also been identified during previous state audits. Currently, represented State Bar employees contribute 20 percent of the costs of health care coverage with the option to choose among three plans; as a point of reference, 2016 monthly coverage costs for a family plan range from \$1,989 (Kaiser) to \$2,673 (Aetna). Comparable 2017 rates are expected to be \$2,041 and \$3,060 respectively. The overall State Bar workforce is split on a 60/40 Kaiser to Aetna ratio; for Confidential and Executive staff the coverage ratio is reversed, with 60 percent of these staff choosing an AETNA option, and 40 percent Kaiser.

Unlike represented staff, Executive and Confidential staff do not contribute to the cost of health care, with the State Bar paying 100 percent of the cost of the selected plan. As compared to the agencies surveyed as part of CPS HR's total compensation analysis, the State Bar's practice of covering 100 percent of the cost of health care for *any* group of staff was a notable outlier.

## DISCUSSION

The Board has previously given staff direction to advance the implementation of CPS HR classification and compensation recommendations. With respect to compensation specifically, the Board has determined that the new salary ranges should be implemented for new hires and that recommended pay ranges should inform salary increases for current employees. As the Board is aware, with respect to represented staff, implementation is dependent on the conclusion of a meet and confer process that is currently underway. Further, the application of new salary ranges for existing staff will be quite complex, with differential impacts on those above or below the new salary ranges, and some staff being "red-circled" at their existing salary levels.

The original impetus for the classification and compensation analysis was a legislative directive to complete a compensation study included in the State Bar's 2016 fee bill. Although not directly at issue in the animating legislation, the State Bar's 36.25 hour work week became central to the development of CPS HR's compensation analysis and recommendations; State Bar salaries were adjusted *upwards* to enable a comparison to surveyed agencies, and CPS HR's resulting salary recommendations were adjusted *downwards* to reflect a 36.25 hour work week. In addition to requiring these series of

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<sup>2</sup> Of the 16 survey agencies, all have a 40-hour work week other than the City of Oakland, which has a 37.5 hour work week.

<sup>3</sup> Non-management attorney staff are currently required to work a 40-hour work week.

<sup>4</sup> Questions regarding the origin of this practice have recently arisen. Former State Bar Deputy Director, Robert Hawley informed staff that the work hours pre-date his time at the State Bar, which began in 1978, and the specific origin is unknown.

adjustments, the CPS HR analysis highlighted the atypical nature of the State Bar's abbreviated work week as compared to labor market survey agencies.

Similarly, benefit data gathered from survey agencies during the compensation analysis illustrated the irregularity of the State Bar's health benefit package for Executive and Confidential staff. Currently, while represented employees contribute a 20 percent share of the cost of their health benefit, the State Bar assumes 100 percent of such costs for Confidential and Executive staff. As reflected in Attachment A, this model results in the State Bar's overall costs for Confidential and Executive staff health benefits significantly exceeding those incurred by most other survey agencies. The State Bar's closest "natural" comparable agency, the Judicial Council, provides a flat dollar amount aligned with the lowest cost CalPERS plan offering; employees must pay 100 percent of costs above that dollar amount. A similar model is used for California State executive personnel.

The State Bar's generous executive compensation package was in fact highlighted in the most recent State Bar audit:

*"Additionally, the State Bar provides most of its executive staff with benefits that are more generous than the State gives to those in CEA [California Executive Assignment] positions. For example, State Bar executive staff receive health, dental, and vision benefits that cost the State Bar nearly \$38,000 per person annually. This amount is almost double the amount that the State pays for its CEA positions' benefits—about \$19,500 annually. If the State Bar capped its employer contributions at the level that the State uses, it could save as much as \$433,000 annually".<sup>5</sup>*

The recommendations outlined below reflect an intent for all Confidential and Executive staff to begin contributing to the cost of health care while employed at the State Bar. However, staff recommends that Executive staff hired before January 1, 2018, the date on which these staff will begin contributing to health care costs, be "grandfathered" into the existing *post*-employment retiree health benefit plan. Under this plan, for which only Executive staff are currently eligible, the State Bar pays for 100 percent of the cost of retiree health care. Staff feels that it is important to maintain this benefit for existing State Bar Executive employees, many of whom have planned retirement for years on the basis of the Bar's 100 percent health plan cost coverage, and will experience a reduced income upon retirement.

Lastly, and in a similar effort to align the State Bar's practices with those of comparable employers, staff recommends that Executive and Confidential staff who opt-out of State Bar provided health benefits and have documented alternative coverage be afforded a payment in lieu-of benefit; the amount of the benefit will be tied to that afforded to State Executive branch personnel. That rate is currently \$130 per month.

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<sup>5</sup> California State Auditor Report 2015-047 page 46.

## RECOMMENDATIONS

The following recommendations, which address the work week for new Executive and Confidential staff, adoption of CPS HR classification and compensation recommendations for these new hires, and health care cost sharing requirements, represent a visible and important affirmation of the Bar's commitment to prudent fiscal and operational management, and sensitivity to the need to be aligned with labor market comparable agencies and to timely comply with legislative directives. While recommendation implementation efforts as related to the Bar's represented staff are dependent on the outcome of the meet and confer process, the State Bar is able to unilaterally advance the new classification and compensation structure for Confidential and Executive staff.

Importantly, the presently recommended changes to the work week and classification and compensation structure apply only to new hires. Staff will return to the Board of Trustees at an upcoming meeting to seek authorization to apply these changes to existing Executive and Confidential staff. The approach to implementation has been bifurcated in recognition of both the logistical challenges of changing work hours (and associated accruals) for existing staff and the need for the Bar to move forward expeditiously with those aspects of personnel practice reform that can be relatively easily accomplished.

Staff recommends that:

- 1) The Executive and Confidential Rules be modified to reflect a 40-hour work week for all staff hired on or after April 17, 2017;
- 2) The Executive and Confidential Rules be modified to require contributions to the cost of health care at the same level as bargaining unit employees, effective January 1, 2018;
- 3) The Executive and Confidential Rules be modified to reflect a payment-in-lieu-of benefit of \$130 for those staff who opt out of State Bar provided health benefits effective January 1, 2018;
- 4) That the Executive Rules and the Post-Retirement Welfare Benefits Plan be modified to reflect the fact that Executive staff hired on or after January 1, 2018, will be required to contribute to the cost of post-retirement health care at a rate commensurate with their contribution during State Bar employment;
- 5) CPS HR recommended classifications be used for all Executive and Confidential staff recruitments that are initiated on or after April 17, 2017; and
- 6) CPS HR recommended salary ranges, as adjusted to reflect a 40-hour work week where appropriate (for all positions other than non-management attorney classifications), be used for all Executive and Confidential staff hires that occur on or after April 17, 2017.

These changes can be effectuated by making revisions to the Executive and Confidential Rules and the Post-Retirement Welfare Benefits Plan as outlined in

Attachments B-D.

## **FISCAL/PERSONNEL IMPACT**

Assuming a Confidential and Executive staff health care cost contribution rate of 20 percent, adoption of these recommendations will result in savings of approximately \$500,000 annually. An alternate model being considered, and more aligned with Judicial Council and State of California executive personnel, would result in a set dollar amount contribution (as opposed to percentage) equating to the full cost of the lowest cost plan. Estimated savings associated with this model are between \$300,000 and \$400,000, given the high rate at which represented staff currently avail themselves of the lowest cost plan.

## **RULE AMENDMENTS**

None.

## **BOARD BOOK IMPACT**

None.

## **BOARD GOALS & OBJECTIVES**

Goal 4: Improve the fiscal and operational management of the State Bar, emphasizing integrity, transparency, accountability, and excellence.

- a. Implement an updated Classification and Compensation structure reflecting the results of classification and compensation analyses completed in February 2017.

## **BOARD COMMITTEE RECOMMENDATIONS**

The Board Executive Committee concurs with the recommendation of staff to amend the Executive Rules, Confidential Rules, and Post-Retirement Welfare Benefits Plan document and therefore it is:

**RESOLVED**, that the Board Executive Committee on behalf of the Board of Trustees approves the revisions to the Executive Rules, Confidential Rules, and Post-Retirement Welfare Benefits Plan outlined in Attachments B, C, and D.

## **ATTACHMENT(S) LIST**

- A. Survey Agency Health Benefit Data
- B. Executive Rules
- C. Confidential Rules
- D. Post-Retirement Welfare Benefits Plan

State Bar of California

Total Compensation Study – Draft Data

<b>TABLE C3</b> <b>STATE BAR ASSOCIATION OF CALIFORNIA</b> <b>TOTAL COMPENSATION STUDY</b> <b>CAFETERIA PLAN EMPLOYER CONTRIBUTION PRACTICES</b>					
Agency	Max Monthly Employer Contribution to Cafeteria Plan	Intended Cafeteria Plan Benefits	Max Monthly Employer Contribution to Medical Insurance	Max Monthly Employer Contribution to Dental Insurance	Max Monthly Employer Contribution to Vision Insurance
State Bar Association of California	N/A	N/A	Attorney and General EEs: \$2,138 Exec: \$2,673	Attorney and General EEs: \$131 Exec: \$164	Attorney and General EEs: \$31 Exec: \$40
Alameda County Superior Court	Management \$125 SEIU N/A	EE portion of health insurance and voluntary life and AD&D. Unreimbursed health, dental, & vision expenses. Some over-the-counter expenses	\$1,529	\$164	N/A
California Judicial Council	DNA	DNA	\$1,620	N/A	N/A
City and County of San Francisco	N/A	N/A	\$1,692	\$177	Inc w/med
City of Anaheim	N/A	N/A	\$1,388	\$56	Inc w/med
City of Long Beach	N/A	N/A	\$1,436	\$121	\$14
City of Los Angeles	DNA	DNA	\$1,443	\$47	Inc w/med
City of Oakland	N/A	N/A	\$1,941	\$113	\$29
City of San Jose	N/A	N/A	\$1,575	\$144	Exec/Mgmt: N/A CEO & ALP: \$16
County of Alameda	Unrep, ACMEA \$258 SEIU \$75	Medical, dental, vision, supplemental employee life, and AD&D insurance benefit elections	\$1,633	\$124	N/A

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County of Los Angeles	Management and Unrep: With 10 years of service 17.4% of salary or \$1158, whichever is greater. SEIU: 1837.66	Medical, dental, life and AD&D insurance, LTD, and health and dependent cares spending accounts.	N/A	N/A	N/A
County of Orange	N/A	N/A	\$1,229	Exec Mgmt & Mgmt: \$125 – Employer reimburses up to \$1,500 cost annually All others: N/A	N/A
County of Santa Clara	N/A	N/A	Exec Unrep: \$1,851 CCAA, GAA: \$1,929 SEIU: \$1,930	\$114	\$10
Los Angeles County Superior Court	Mgmt, Non-Rep: 14.5% to 17% of salary or \$1,158, whichever is greater. Local 3271, Local 3302: \$1,633	Medical, dental, disability, life and AD&D insurance, and health and dependent care spending accounts.	N/A	N/A	N/A
Los Angeles Unified School District	N/A	N/A	\$931	Inc w/med	Inc w/med
San Francisco County Superior Court	Executive Management \$2,041	Medical, dental, vision, disability, life insurance	Local 21 and 1021 \$2041	Local 21 and 1021 \$192.05	Inc w/ med

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State of California	Executive Management, Management (M01), Represented Units 2 and 7 \$1,572	Health, Dental, Vision	Represented Units 1 and 4 \$1,469	Represented Units 1 and 4 \$40.83	Represented Units 1 and 4 \$8.64



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State of California	Executive Management, Management (M01), Represented Units 2 and 7 \$1,572	Health, Dental, Vision	Represented Units 1 and 4 \$1,469	Represented Units 1 and 4 \$40.83	Represented Units 1 and 4 \$8.64

## **SECTION 13. INSURANCE BENEFITS**

C. The State Bar shall provide health care coverage on the same terms as those provided for bargaining unit employees effective January 1, 2018. Employees who provide evidence of alternate coverage may elect to "opt-out" of State Bar provided insurance benefits and will receive a \$130 monthly taxable income payment in lieu of benefit coverage. ~~The State Bar shall pay 100% of the premium payments for all insurance coverages under this section for Executive Staff Employees and qualified dependents.~~

## **SECTION 27. RETIREMENT**

D. Under the following circumstances, the State Bar shall provide to regular, full-time Executive Staff Employees who receive benefits under CalPERS and who retire under CalPERS as Executive Staff on or after the date upon which these Executive Staff Rules are adopted, comparable health care plan (providing medical/hospital and vision care coverage) benefits including dependent and domestic partner coverage benefits, as it provides from time to time to its then active, regular, full-time Employees, provided that:

1. For Executive Staff Employees employed as such as of the date these rules are adopted (August 19, 2006), eligibility requires fifteen years of service to the State Bar as a regular employee. For Employees who become Executive Staff after the date these Rules are adopted, eligibility requires fifteen years of service to the State Bar as a regular employee, with at least the last ten years of service preceding retirement as an Executive Staff Employee.

2. Executive staff hired prior to January 1, 2018 will be eligible for 100% employer paid retiree health and vision benefits should they meet the eligibility/vesting requirements under Section 5 –Post-Retirement Welfare Benefits Plan document.

## SECTION 4: DEFINITIONS

- K. "Individual Workday" shall mean that minimum period of time a Confidential Employee works during the calendar day, normally a period of at least ~~seven and one quarter (7.25) hours for non-attorneys and eight~~ (8) hours. ~~for attorneys.~~
- L. "Individual Workweek" is defined as those five Individual Workdays that a Confidential Employee is scheduled to work during the Calendar Week, normally a period of at least ~~thirty-six and one quarter (36.25) hours for non-attorneys and~~ forty (40) hours. ~~for attorneys.~~



## **SECTION 14.        EMPLOYMENT STATUS**

B. Regular full-time status designates a Confidential Employee on a continuous, full-time basis, i.e., at least ~~thirty-six and one-quarter (36.25) hours per calendar week for non-attorney personnel and at least~~ forty (40) hours ~~for attorney personnel.~~

## **SECTION 15.        HOURS OF EMPLOYMENT**

D. The wages and salaries of full-time ~~non-attorney~~ Confidential Employees at the State Bar are based upon an Individual Workday ~~of seven and one quarter (7.25) hours and an Individual work week of thirty-six and one-quarter (36.25) hours.~~ ~~of eight (8) hours and the individual Workweek is forty(40) hours.~~ ~~For attorney Confidential Employees, the Individual Workday is eight (8) hours and the Individual Workweek is forty (40) hours.~~ Confidential Employees are expected to work at least these regular work hours.

E. Non-Exempt Confidential Employees:.

2. Non-Exempt Confidential Employees are eligible for overtime pay as follows:

- a. Time and One-Half Overtime: Chargeable time worked in excess of eight (8) hours during the calendar day or forty (40) hours during the Calendar Week will be paid at one and one-half (1-1/2) times the Non-Exempt Confidential Employee's straight time hourly rate. ~~Time worked in excess of seven and a quarter (7.25) but less than eight (8) hours during the calendar day is paid at straight time rates.~~

## **Post-Retirement Welfare Benefits Plan** **SECTION 5: VESTING**

### **(2) Years of Service.**

(i) With respect to a Participant who became an Executive Staff Employee on or before August 19, 2006, and who is continuously employed as an Executive Staff Employee from that date through the termination of his or her employment, such Participant must complete at least 15 Years of Service as an Employee (counting Service as an Executive Staff Employee and other Service as an Employee).

(ii) With respect to a Participant who becomes an Executive Staff Employee after August 19, 2006 (including any Participant reemployed or reinstated as an Executive Staff Employee on or after such date), such Participant must complete (A) at least 10 Years of Service as an Executive Staff Employee, and (B) at least 15 total Years of Service as an Employee, counting Service as an Executive Staff Employee and other Service as an Employee.

**(iii) With respect to a Participant who becomes an Executive Staff Employee before January 1, 2018, who meets the vesting requirements outlined in Section 5, such participant will be entitled to receive 100% employer-funded health care coverage. Participants hired on or after January 1, 2018, who meet the vesting requirements outlined in Section 5 will contribute towards the cost of retiree health coverage at their current contribution rate as an active employee.**