

**OPEN SESSION
AGENDA ITEM**

702 NOVEMBER 2018

DATE: 11/16/2018

TO: Members, Board of Trustees

FROM: Jay J. Lee, Asst. General Counsel, Office of General Counsel

SUBJECT: Exception to CalPERS 180 Day Wait Period to Appoint Shelia Campbell as a Retired Annuitant

EXECUTIVE SUMMARY

To comply with California Public Employee Retirement System (CalPERS) requirements, Board of Trustees action is required to certify that there is a critical need to appoint a recently retired State Bar employee as a retired annuitant before six months has passed from that individual's retirement date. Shelia Campbell was an experienced and long-tenured Investigator II who worked in the Office of Chief Trial Counsel (OCTC) until she retired on June 29, 2018. OCTC needs additional investigatory resources due to recruiting difficulties caused by a tight labor market. On a consistent but unpredictable basis, OCTC's need for investigative resources spikes due to increases in incoming complaints or the unavailability of regular investigative staff. Because of her long years of experience as an OCTC Investigator, her more than 35 years with the State Bar and the flexibility she will have as a retired annuitant, Ms. Campbell has specialized skills and is uniquely positioned to provide OCTC with additional investigatory resources for its short term needs.

BACKGROUND

The State Bar of California participates in the CalPERS retirement system. CalPERS retirees can be hired to work as retired annuitants if they meet certain statutory conditions. (Government Code sections 7522.56 and 21224.) However, CalPERS retirees are prohibited from working as retired annuitants within the first 180 days after their retirement date unless the governing body of a public agency passes a resolution in public session certifying that the CalPERS retiree has unique skills and there is a critical need to appoint them within the first 180 days of retirement.

DISCUSSION

Shelia Campbell was an OCTC Investigator since 1985. She was promoted to Investigator II in 1986 and worked in that role for more than 32 years before she retired on June 28, 2018. Her three decades of experience investigating complaints of unprofessional conduct by State Bar licensees provides Ms. Campbell with unique skills.

OCTC has a critical need for Ms. Campbell's skills as an investigator because of a present shortage of experienced investigative resources within the disciplinary system.

OCTC has experienced difficulty hiring qualified staff, particularly investigators with the relevant skills, due in part to a competitive labor market. Hiring Ms. Campbell as a retired annuitant will help fulfill OCTC's investigative needs in the short term.

FISCAL/PERSONNEL IMPACT

Ms. Campbell's hourly rate of pay as a retired annuitant will be \$48.93. Staff does not anticipate that Ms. Campbell's retired annuitant appointment will have any significant impact on the State Bar's finances as OCTC is not spending as much as anticipated or budgeted for labor costs due to the challenging recruiting environment.

RULE AMENDMENTS

None

BOARD BOOK AMENDMENTS

None

STRATEGIC PLAN GOALS & OBJECTIVES

Goal:

Goal 2: Ensure a timely, fair, and appropriately resourced admissions, discipline, and regulatory system for the more than 250,000 lawyers licensed in California.

Objective:

Objective c: Develop and implement transparent and accurate reporting and tracking of the health and efficacy of the discipline system, to include...(b) identification of staffing and resource needs....

RECOMMENDATION

The Staff recommends that the Board of Trustees approve the following resolution:

RESOLVED, that the Board of Trustees adopts the resolution set forth in Attachment A.

ATTACHMENT LIST

A. CalPERS Resolution

Attachment A

RESOLUTION November 16, 2018

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 a retiree before 180 days has passed since their retirement date; and

WHEREAS, Shelia Campbell has retired under CalPERS as an Investigator II with The State Bar of California effective June 28, 2018; 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, Sheila Campbell certifies that she has not and will not receive any unemployment insurance benefits after her June 28, 2018, retirement date; and

WHEREAS, The State Bar of California Board of Trustees and The State Bar of California certify that there is a critical need to hire Shelia Campbell as a retired annuitant within 180 days of her June 28, 2018, retirement date; 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 not less than the minimum (\$6,360) nor exceeds the maximum (\$8,480) monthly base salary paid to State Bar employees performing comparable duties (Investigator IIs), divided by 173.333 to equal the hourly rate; and

WHEREAS, the hourly rate paid to Shelia Campbell for her work as a retired annuitant will be \$48.93 per hour; and

WHEREAS, Shelia Campbell 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 November 19, 2018.