



The State Bar of California

OPEN SESSION AGENDA ITEM 705 SEPTEMBER 2020

DATE: September 24, 2020

TO: Members, Board of Trustees

FROM: Michelle Cramton, Clerk of the State Bar Court
Jay Lee, Assistant General Counsel

SUBJECT: Exemption to CalPERS 180-Day Wait Period in Order to Appoint Marilyn Tichenor as Retired Annuitant under Government Code section 21224

EXECUTIVE SUMMARY

Marilyn Tichenor retired from the State Bar of California on August 28, 2020 after 42 years of service, 41 of which was with the State Bar Court (SBC). Immediately prior to her retirement and in her capacity as a Program Manager II, Ms. Tichenor was working closely with IT and the outside software vendor Polyrific on completing SBC's implementation of the new case management system (CMS). Since the implementation process is not yet complete, the State Bar and SBC continue to need Ms. Tichenor's unique skills and perspective to ensure that the software delivers reports, forms, and other capabilities that were not included in the February 2019 conversion. In addition, SBC and its managers may consult with Ms. Tichenor on other operational issues on an as-needed basis, as would be consistent with the Program Manager II job classification. It is anticipated that Ms. Tichenor will work 0-10 hours per week as a retired annuitant. 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.

BACKGROUND

The State Bar 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 that there is a critical need to appoint them within the first 180 days of retirement.

DISCUSSION

With 42 years of experience working at the State Bar and the SBC, Ms. Tichenor has unique and unparalleled insight into and institutional knowledge about SBC's operations and needs. In particular, her unique knowledge and skills have been and will continue to be critical for SBC's continuing implementation of the new CMS. Losing Ms. Tichenor's unique knowledge and skills before full CMS implementation is completed would significantly delay and may ultimately jeopardize this project. Likewise, waiting six months before Ms. Tichenor can be appointed as a retired annuitant will also delay the project's completion.

FISCAL/PERSONNEL IMPACT

None

AMENDMENTS TO RULES OF THE STATE BAR

None

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & OBJECTIVES

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 a: For greater transparency, accountability, efficiency, and access, develop and deploy a new case management system for the Office of Chief Trial Counsel, State Bar Court, and the Office of Probation by October 31, 2018.

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 appoints Marilyn Tichenor as a retired annuitant.

ATTACHMENT(S)

A. CalPERS Resolution

**RESOLUTION
SEPTEMBER 24, 2020**

**RESOLUTION FOR EXCEPTION TO THE 180-DAY WAIT PERIOD
GC SECTION 522.56 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, Marilyn Tichenor, after 42 years of State Bar service, retired under CalPERS as a Program Manager II effective August 28, 2020; 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. Tichenor certifies that she has not and will not receive any unemployment insurance benefits; 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 Ms. Tichenor as a retired annuitant beginning on September 28, 2020, which is within 180 days of her August 28, 2020, 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 equal to the monthly base salary (\$13,004.75) paid to State Bar employees performing comparable duties (Program Manager IIs), divided by 173.333 to equal the hourly rate; and

ATTACHMENT A

WHEREAS, Ms. Tichenor will work on average 0-10 hours per week until the CMS project is complete and the hourly rate paid to Ms. Tichenor for her work as a retired annuitant will be \$75 per hour; and

WHEREAS, Ms. Tichenor 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 September 28, 2020.