



The State Bar of California

OPEN SESSION AGENDA ITEM 702 MARCH 2022

DATE: March 24, 2022

TO: Members, Board of Trustees

FROM: Vanessa Holton, General Counsel

SUBJECT: Approval of Exception to CalPERS 180-Day Wait Period for Appointment of Linda Katz as a Retired Annuitant under Government Code Section 21224

EXECUTIVE SUMMARY

To comply with the 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 a former employee retired under CalPERS as a retired annuitant within 180 days of that individual's retirement date. Linda Katz, Principal Program Analyst in the Office of Mission Advancement & Accountability, will retire from the State Bar effective June 3, 2022. Ms. Katz has unique institutional knowledge and specialized skills needed for operational continuity; thus, the State Bar seeks interim short-term assistance from Ms. Katz immediately after her retirement and through the process of transitioning those duties to her successor.

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 in paragraph 3 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 180 days following their retirement date unless the governing board of the contracting entity certifies to a critical need for the individual's skills within this 180-day 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. Katz has worked for the State Bar since 2016. Following the formation of the California Paraprofessional Program Working Group (CPPWG), in her role as principal program analyst, Ms. Katz became the primary staff person responsible for supporting the CPPWG and many of its subcommittees. The CPPWG was tasked with developing specific recommendations for the program regarding the practice areas to be included in the program, the scope of practice, eligibility requirements, business requirements, regulatory requirements, and data collection for evaluating the program. In supporting these efforts, Ms. Katz conducted research, coordinated and attended meetings of the CPPWG and its 17 subcommittees, prepared memoranda containing subcommittee recommendations for the full CPPWG, and identified subject matter experts to provide information to the subcommittees.

As of the date of Ms. Katz's retirement, the CPPWG will not have concluded its deliberation process, which currently includes reviewing thousands of public comments that Ms. Katz has organized and analyzed. The State Bar requires Ms. Katz's assistance as staff support to the CPPWG through the conclusion of its work. Further, should the recommendations of the CPPWG result in any need for follow up work by the State Bar, Ms. Katz's invaluable experience will be needed in that effort.

Ms. Katz is also responsible for coordinating the State Bar's compliance with applicable statutes, the California Rules of Court, and the State Bar Rules. Additionally, Ms. Katz maintains an inventory of the State Bar's reporting requirements and works with office heads to ensure that the State Bar complies with its mandatory reporting obligations. Ms. Katz is the person with the most knowledge of the compliance and reporting requirements at the State Bar, and she will need to transition this knowledge to another staff person to ensure continuity of operations.

Ms. Katz has also been involved in evaluating the consumer alert process. As part of this work, Ms. Katz has documented the authority for consumer alerts by reviewing Board of Trustee minutes, and she has helped to develop recommendations related to issuing consumer alerts. Her unique knowledge in this area will need to be successfully transferred for operational continuity.

As a result of Ms. Katz's specialized and relevant set of skills and experience, she is the most qualified person to provide extra help required to support the CPPWG and to ensure the successful transition of her successor with respect to ongoing work, including regulatory and compliance efforts and consumer alerts. Accordingly, the State Bar seeks to appoint Ms. Katz as a retired annuitant immediately upon her retirement.

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. Katz as a retired annuitant within 180 days 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. Katz's hourly rate of pay as a retired annuitant would be \$71.90, based on the top of the salary range of the principal program analyst classification. Staff does not anticipate that the retired annuitant appointment will have any significant impact on the State Bar's finances.

AMENDMENTS TO RULES

None

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & OBJECTIVES

Goal: 4. Support access to legal services for low- and moderate-income Californians and promote policies and programs to eliminate bias and promote an inclusive environment in the legal system and for the public it serves, and strive to achieve a statewide attorney population that reflects the rich demographics of the state's population.

Objective b: Study and implement improved programmatic approaches to increasing access to justice.

Objective f: No later than July 31, 2021, explore options to increase access through licensing of paraprofessionals, limited license legal technicians, and other paraprofessionals.

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. Katz as a retired annuitant prior to the 180-day CalPERS waiting period.

ATTACHMENT LIST

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

**RESOLUTION
MARCH 24, 2022**

**RESOLUTION FOR EXCEPTION TO THE 180-DAY WAIT PERIOD
GOVERNMENT CODE 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, Linda Katz plans to retire under CalPERS as a principal program analyst effective June 3, 2022;

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. Katz 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. Katz as a retired annuitant beginning on June 4, 2022, which is within 180 days of her June 3, 2022, 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 (\$12,462) paid to State Bar employees performing comparable duties, divided by 173.333 to equal the hourly rate; and

WHEREAS, the hourly rate paid to Ms. Katz for her work as a retired annuitant will be \$71.90; and

WHEREAS, Ms. Katz 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;

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 June 4, 2022.