



The State Bar of California

OPEN SESSION AGENDA ITEM 50-9 MAY 2022

DATE: May 19, 2022

TO: Members, Board of Trustees

FROM: Steve Mazer, Chief Administrative Officer

SUBJECT: Correction to Approval of Exception to CalPERS 180-Day Wait Period and Waiver of Board of Trustees Policy Manual 12-Month Wait Period for Appointment of Dag MacLeod as a Retired Annuitant under Government Code Section 21224

EXECUTIVE SUMMARY

This item requests a correction to the March 24, 2022, resolution of the Board of Trustees, approving an exception to the 180-day waiting period for the appointment of Dag MacLeod as a retired annuitant. The correction specifically addresses an error in the hourly rate identified for Mr. MacLeod in the March agenda item.

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 as 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 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

At its March 24, 2022, meeting, the Board of Trustees adopted resolutions approving exceptions to the 180-day waiting period for the appointment of retiring State Bar employees Linda Katz and Dag MacLeod as retired annuitants. Ms. Katz's duties were described as aligned with the principal program analyst classification, with an hourly rate of pay of \$71.90. Mr. McLeod's duties were also described as aligned with the principal program analyst classification but should have been described as aligned with the program director I classification, with an hourly rate of pay of \$93.06. The Board is now asked to approve a resolution correcting the rate of pay for Mr. MacLeod. A redline version of the March 24, 2022, resolution, showing the correction, is included as Attachment A.

FISCAL/PERSONNEL IMPACT

Mr. MacLeod's hourly rate of pay as a retired annuitant will be \$93.06, based on the top of the salary range of the program director I classification. Staff does not anticipate that Mr. MacLeod's 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

None – core business operations

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 correction to the March 24, 2022, resolution with respect to the hourly rate of pay for Dag MacLeod, as set forth in Attachment A.

ATTACHMENT LIST

- A.** Resolution for Exception to the 180-Day Wait Period, Government Code sections 7522.56 and 21224, redlined to show correction to the hourly rate of pay

**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, Dag MacLeod plans to retire under CalPERS as the chief of Mission Advancement & Accountability effective April 2, 2022; 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, Mr. MacLeod certifies that he 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 Mr. MacLeod as a retired annuitant beginning on April 3, 2022, which is within 180 days of his April 2, 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)~~ (\$16,130) paid to State Bar employees performing comparable duties, divided by 173.333 to equal the hourly rate; and

WHEREAS, the hourly rate paid to Mr. MacLeod for his work as a retired annuitant will be ~~\$71.90~~ \$93.06; and

WHEREAS, Mr. MacLeod 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 April 3, 2022.