



The State Bar of California

OPEN SESSION AGENDA ITEM 708 MAY 2022

DATE: May 19, 2022

TO: Members, Board of Trustees

FROM: Vanessa Holton, General Counsel

SUBJECT: Approval of Exception to CalPERS 180-Day Wait Period and Waiver of Board of Trustees Policy Manual 12-Month Wait Period for Appointment of Lori Meloch 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. In addition, to comply with the State Bar's Policy Restricting Business with the State Bar After Leaving Office, a waiver under the terms of that policy is also necessary from the Board. Lori Meloch, Program Director II, Office of Professional Support & Client Protection, will retire from the State Bar on May 31, 2022. As a result of Ms. Meloch's unique knowledge and relevant experience, she is the most qualified person to provide the extra help required to advance ongoing legal work and policy initiatives described below. Accordingly, the State Bar seeks to appoint Ms. Meloch as a retired annuitant about a month after her retirement.

BACKGROUND

The State Bar of California participates in the CalPERS retirement system. A CalPERS retiree can be appointed to work for their 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

Ms. Meloch has served in a number of roles during her tenure with the State Bar, including senior attorney, program manager, and program director. In May of 1994, Ms. Meloch joined the State Bar as a staff attorney for the Complainant's Grievance Panel. She moved to the Client Security Fund (CSF) in 1996 and became a senior attorney in 2000. She was promoted to manage CSF in 2012. In 2019, Ms. Meloch became a program director II supervising the Office of Case Management & Supervision, which encompasses CSF, the Voluntary Lawyer Assistance Program, and Case Management and Supervision (Probation and Mandatory Lawyer Assistance Program).

In her position, Ms. Meloch continued to manage her legal caseload of CSF cases while also supervising three offices and managing the Attorney Supervision & Assistance Redesign (ASAR) project and the reimagining of LAP. As a result of Ms. Meloch's unique knowledge and relevant experience, she is the most qualified person to provide the extra help required to advance ongoing legal work and policy initiatives, including CSF casework, the creation and selection of a new CSF case management system, drafting new CSF collection policies, and continuing ASAR projects like the implementation of a risk assessment. Accordingly, the State Bar seeks to appoint Ms. Meloch 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. Meloch as a retired annuitant within 180 days of her retirement date as required by CalPERS under Government Code sections 7522.56 and 21224.

Additionally, the State Bar seeks from the Board of Trustees a waiver for good cause of the Board Policy 11.2, Restricting Business with the State Bar After Leaving Office. Section 11.2 states:

Members of the Board of Trustees and senior managers designated by the executive director for a period of 12 months following expiration of their term of office or termination of employment shall not:

Seek to do, or do, business with the State Bar for monetary gain, or act as an agent or attorney for, or otherwise represent any person, for compensation by making any formal or informal appearance, or any oral or written communication before the State Bar, or any officer or employee or agent thereof, if the appearance or communication is for the purpose of influencing official State Bar action, including the awarding or revocation of services, contracts, or the sale or purchase of goods or property.

The Board, or its designee, may waive the requirements of this policy for good cause.

Good cause exists to waive the 12-month waiting period as Ms. Meloch's appointment as a retired annuitant will allow for operational continuity on significant State Bar initiatives, including continuing to handle CSF cases while that office recruits staff for vacant positions and enable her successor to become acclimated to the work of the office and make decisions regarding the direction of the office. Ms. Meloch will also consult with her successor on the ASAR project to ensure no loss of momentum in implementing those changes.

FISCAL/PERSONNEL IMPACT

Mr. Meloch's hourly rate of pay as a retired annuitant will be \$95.105, based on the conversion of a supervising attorney's salary into an hourly rate. Staff does not anticipate that Ms. Meloch'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

Goal: None – core business operations

RECOMMENDATIONS

Should the Board of Trustees concur in the proposed action, the passage of the following resolution is recommended:

RESOLVED, that the Board of Trustees adopts the resolution set forth in Attachment A and certifies that there is a critical need to appoint Ms. Meloch as a retired annuitant prior to the 180-day CalPERS waiting period; and it is

FURTHER RESOLVED that the Board of Trustees, for good cause, waives the 12-month waiting period provided for in section 11.2 of the Board of Trustees Policy Manual (Policy Restricting Business with the State Bar After Leaving Office), as applied to Lori Meloch.

ATTACHMENT LIST

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

**RESOLUTION
MAY 19, 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 with this certification resolution when hiring retirees before 180 days have passed since their retirement date; and

WHEREAS, Lori Meloch plans to retire under CalPERS as the Program Director for the Office of Professional Support & Client Protection effective May 31, 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. Meloch 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. Meloch as a retired annuitant beginning on July 5, 2022, which is within 180 days of her May 31, 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 (\$16,658.166) 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. Meloch for her work as a retired annuitant will be \$96.105; and

WHEREAS, Ms. Meloch has not and will not receive any other benefit, incentive, or compensation in lieu of benefits or any 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 July 5, 2022.