



# The State Bar of California

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## **OPEN SESSION AGENDA ITEM 50-10 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 for Appointment of George Hue as a Retired Annuitant under Government Code Section 21224

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### **EXECUTIVE SUMMARY**

Board of Trustees action is required to waive the 180-day waiting period for the State Bar to appoint a former employee retired under the California Public Employee Retirement System (CalPERS) as a retired annuitant within 180 days of the individual's retirement date. George Hue retired from the State Bar as a court specialist on January 31, 2022. Mr. Hue has unique institutional knowledge and specialized skills needed for operational continuity in the State Bar Court. As such, the State Bar seeks interim, short-term assistance from Mr. Hue during the 180-day waiting period.

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### **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**

Following his retirement on January 31, 2022, and pursuant to Executive Order N-12-21, which temporarily suspended Government Code section 7522.56(f) requiring a 180-day break in service requirement for CalPERS retirees, George Hue began employment with the State Bar Court as retired annuitant on March 7, 2022. Effective June 30, 2022, the provisions in Executive Order N-12-21 that authorized Mr. Hue's retired annuitant status will sunset. As such, the State Bar Court requests that this Board of Trustees act to waive the 180-day waiting period to maintain Mr. Hue's retired annuitant status.

Due to recent vacancies in the San Francisco Hearing Department of the State Bar Court, there is a continuing need for a court specialist with the ability to perform specialized case work. Mr. Hue has worked for the State Bar Court for over 30 years and has a comprehensive knowledge of the duties required of a court specialist. Mr. Hue's specialized knowledge of these duties make him the most qualified person to provide assistance to the State Bar Court and to ensure successful training of new court specialists. Mr. Hue's continued work would ensure that the Hearing Department work is completed by a someone with the unique skill set to maintain the standard of excellence expected by the judicial officers and court participants.

Because of CalPERS restrictions on contracting with a CalPERS retiree, the State Bar Court is seeking a Board resolution certifying the critical need to appoint Mr. Hue as a retired annuitant within 180 days of his 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**

Mr. Hue's hourly rate of pay as a retired annuitant would be \$47.54, based on the top of the salary range for a court specialist in the State Bar Court. The salary savings due to vacancies in the State Bar Court will cover the costs of employing Mr. Hue as a retired annuitant. Staff does not anticipate that Mr. Hue'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, 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 Mr. Hue 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  
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 this certification resolution when hiring retirees before 180 days has passed since their retirement date; and

**WHEREAS**, George Hue retired under CalPERS as a court specialist, effective January 31, 2022; and

**WHEREAS**, pursuant to Executive Order N-12-21, Mr. Hue became a retired annuitant on March 7, 2022; and

**WHEREAS**, the provisions in Executive Order N-12-21 that authorized Mr. Hue's retired annuitant status earlier than 180 days after his retirement date without a certification resolution will sunset effective June 30, 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. Hue 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 continue Mr. Hue's status as a retired annuitant after June 30, 2022, which is within 180 days of his January 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 (\$8,240.25) 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. Hue for his work as a retired annuitant will be \$47.54; and

**WHEREAS**, Mr. Hue 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 July 1, 2022.