

# **AGENDA ITEM III.A**

## **AUGUST 2015**

**DATE:** August 31, 2015

**TO:** Members, Board Executive Committee

**FROM:** Robert A. Hawley, Acting Executive Director

**SUBJECT:** Exception to the CalPERS 180 Day Wait Period to Contract with Retiree

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### **EXECUTIVE SUMMARY**

To comply with California Public Employee Retirement System (CalPERS) requirements, Board action is required to authorize the State Bar to contract with a retiree under CalPERS, within six months of retirement. Incoming General Counsel Vanessa Holton has retired from the State of California. She will “unretire” and start as a regular employee of the State Bar in October. Her retirement and “unretirement” is due to intricacies of CalPERS’ requirements. During September, after her retirement from the state and before regular State Bar employment, the State Bar seeks her periodic assistance with transition issues. In September, Holton will be a retiree working for a CalPERS agency (the State Bar) within six months of retirement. This status will end with Holton’s “unretirement” in October and regular employment with the State Bar. The action of the Board is necessary to allow Holton’s retired annuitant status in September. The Executive Committee is requested to allow this acting on behalf of the Board in between meetings, as the Executive Committee is authorized to do under its Charter.

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### **BACKGROUND**

The State Bar of California participates in the CalPERS retirement system as a contract public agency. A CalPERS retiree can work for a CalPERS employer as a retired annuitant, with certain limitations. Under pension reform standards (see Government Code section 7522.56 and 21224), the retiree 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 maximum rates set forth above and not take the form of other benefits not captured in the compensation rates;
5. The individual cannot have received unemployment insurance benefits for prior retired annuitant work;
6. The individual cannot be employed as a retired annuitant within six (6) months following retirement unless the governing Board of the contracting entity certifies as set forth in the proposed resolution, which must be filed with CalPERS;

7. The individual must be the normal retirement age or older at the time of retirement.

Vanessa Holton retired from the State of California the end of August 2015. She has accepted employment with the State Bar of California to begin in October 2015. She will “unretire” from the CalPERS retirement system when she becomes a full-time regular State Bar employee. During the month of September, before she commences full-time regular employment, it is anticipated that Holton will be called upon by the State Bar to periodically provide services to the State Bar on a contract basis regarding transition issues. In order to do this as a recently retired CalPERS retiree, and before she “unretires,” the governing Board of the State Bar needs to adopt the findings set forth in the attached resolution.

Holton has special skills and abilities relevant to the State Bar of California as its incoming General Counsel that are necessary, unique and not obtainable elsewhere. There is a unique need for Holton’s interim counsel on issues related to the management transition under way at the State Bar. Holton has the necessary experience to perform these duties, which resulted in her engagement as General Counsel starting in October. Her periodic employment during the month of September is necessary to address the State Bar’s legal needs during the transition.

## **DISCUSSION**

As noted above, the State Bar seeks to engage Vanessa Holton on a periodic basis starting September 1, 2015 through the month of September and into early October to provide legal advice and assistance to the State Bar during its management transition, pending her “unretirement” and regular employment in the General Counsel position in October, 2015. Holton retired from the State of California the end of August 2015. She will “unretire and begin regular State Bar employment in October 2015. To engage Holton under CalPER’s requirements for the month of September, she must be engaged as a retired annuitant. As this is within six months of her retirement from the state, the authority of the State Bar’s governing Board is sought. This is before the Executive Committee acting on behalf of the Board in between meetings, consistent with the Executive Committee’s Charter.

Holton has individualized specialized skills relevant to the engagement. The engagement is of limited duration limited to no more than six weeks, from September 1, 2015 through the middle of October, 2015. This work will not exceed 960 hours for the fiscal year. The position will be compensated at an hourly rate consistent with the annualized salary rate for the position duties. The General Counsel position is vacant awaiting Holton’s “unretirement” and commencement of regular employment.

The engagement of Vanessa Holton will occur within six months following her state retirement and therefore requires the governing Board of the contracting entity to certify as set forth in the proposed resolution. The Executive Committee is requested to take this action on behalf of the Board in between meetings, consistent with the Executive Committee’s Charter. Vanessa Holton is at the fully qualified normal retirement age at the time of her retirement from the state of California therefore the further requirements that address the situation where someone is under the normal retirement age do not apply.

An agreement retaining Vanessa Holton as set forth above is Attachment A. This is the agreement that will be utilized for Vanessa Holton assuming the Board grants this request.

The resolution that the Board is requested to adopt is Attachment B.

**FISCAL/PERSONNEL IMPACT**

Within existing budget.

**RULE AMENDMENTS**

None.

**BOARD BOOK IMPACT**

None.

**BOARD COMMITTEE ACTION**

The Board Executive Committee adopts the following resolution, acting on behalf of the Board in between meetings:

**RESOLVED**, that the Board Executive Committee adopts the resolution, Attachment B, on behalf of the Board of Trustees, acting in between Board meetings consistent with the Charter of the Board Executive Committee.

**ATTACHMENT(S) LIST**

- A. Proposed Standard Limited Term Employment Terms
- B. CalPERS Resolution