Board of Administration

California Public Employees' Retirement System

Consent

Agenda Item 5c10

December 12, 2012

ITEM NAME: Proposed Decision – In the Matter of the Application to Purchase Additional Retirement Service Credit by ARNOLD B. CARSON, Respondent; Case No. 2011-0730

PROGRAM: Customer Account Services Division

ITEM TYPE: Action Consent

PARTIES' POSITIONS

Staff argues that the Board of Administration should adopt the Proposed Decision.

Respondent argues that the Board of Administration should decline to adopt the Proposed Decision.

STRATEGIC PLAN

This item is not a specific product of either the Strategic or Annual Plans. The conduct of administrative hearings and determination of appeals is a power reserved to the Board of Administration.

PROCEDURAL SUMMARY

Respondent Arnold B. Carson purchased one year of additional retirement service credit (ARSC), then submitted a second request for another year of ARSC which CalPERS mistakenly allowed him to purchase. When he submitted a third request, CalPERS discovered its error and corrected it by returning the cost of his second year of ARSC, and denied his request to purchase a third year. Respondent appealed these decisions and the matter was heard by the Office of Administrative Hearings on October 11, 2012. A Proposed Decision was issued on November 6, 2012, denying the appeal.

ALTERNATIVES

A. For use if the Board decides to adopt the Proposed Decision as its own Decision:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System hereby adopts as its own Decision the Proposed Decision dated November 6, 2012, concerning the appeal of Arnold B. Carson; RESOLVED FURTHER that this Board Decision shall be effective 30 days following mailing of the Decision.

B. For use if the Board decides not to adopt the Proposed Decision, and to decide the case upon the record:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, after consideration of the Proposed Decision dated November 6, 2012, concerning the appeal of Arnold B. Carson, hereby rejects the Proposed Decision and determines to decide the matter itself, based upon the record produced before the Administrative Law Judge and such additional evidence and arguments that are presented by the parties and accepted by the Board; RESOLVED FURTHER that the Board's Decision shall be made after notice is given to all parties.

C. For use if the Board decides to remand the matter back to the Office of Administrative Hearings for the taking of further evidence:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, after consideration of the Proposed Decision dated November 6, 2012, concerning the appeal of Arnold B. Carson, hereby rejects the Proposed Decision and refers the matter back to the Administrative Law Judge for the taking of additional evidence as specified by the Board at its meeting.

D. Precedential Nature of Decision (two alternatives; either may be used):

1. For use if the Board wants further argument on the issue of whether to designate its Decision as precedential:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System requests the parties in the matter concerning the appeal of Arnold B. Carson, as well as interested parties, to submit written argument regarding whether the Board's Decision in this matter should be designated as precedential, and that the Board will consider the issue whether to designate its Decision as precedential at a time to be determined.

2. For use if the Board decides to designate its Decision as precedential, without further argument from the parties.

   RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, hereby designates as precedential its Decision concerning the appeal of Arnold B. Carson.

ATTACHMENTS

Attachment A: Proposed Decision
Attachment B: Staff's Argument
Attachment C: Respondent(s) Argument(s)

DONNA RAMEL LUM
Deputy Executive Officer
Customer Services and Support