



## Agenda Item 2

October 13, 2014

**ITEM NAME:** Further Consideration – In the Matter of the Calculation of Final Compensation of CHRISTINE MONSEN, Respondent, and ALAMEDA COUNTY TRANSPORTATION IMPROVEMENT AUTHORITY, Respondent.

**PROGRAM:** Customer Account Services Division

**ITEM TYPE:** Action

### **PARTIES' POSITIONS**

Staff argues that the Board of Administration should decline to adopt the Proposed Decision and issue its own Decision upholding the CalPERS staff recommendation that the employer-paid deferred compensation cannot be included in Respondent Christine Monsen's compensation earnable.

Respondents argue that the Board of Administration should adopt the Proposed Decision.

### **PROCEDURAL SUMMARY**

Respondents Christine Monsen and Alameda County Transportation Authority submitted an appeal from CalPERS' determination to deduct \$1,708.34 from Respondent Monsen's monthly reported final compensation and to calculate her pension accordingly. This amount was removed because it did not meet the definition of compensation earnable in Government Code section 20636.

The appeal was heard by the Office of Administrative Hearings on March 5, 2014 and June 13, 2014. A Proposed Decision was issued on June 30, 2014, granting the appeal.

At its September 17, 2014, meeting, the Board considered the Proposed Decision of the Administrative Law Judge and concluded not to adopt it, but instead to decide the matter itself on the record after affording the parties the opportunity for further argument. The complete hearing record is attached, along with any written arguments submitted by the parties. Additionally, all parties have been notified of their right to present oral argument at the meeting on October 13, 2014.

## **STRATEGIC PLAN**

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

## **ALTERNATIVES**

- A. 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 reviewing the record produced before the Administrative Law Judge and considering written and oral argument presented by the parties, hereby determines to adopt its own decision concerning the appeal of respondents Christine Monsen and Alameda County Transportation Improvement Authority; RESOLVED FURTHER that this Board Decision shall be prepared in accordance with the Board's direction and presented to the Board for adoption at the Board's next monthly meeting.

- B. 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 June 30, 2014, concerning the appeal of respondents Christine Monsen and Alameda County Transportation Improvement Authority; RESOLVED FURTHER that this Board's Decision shall be effective 30 days following mailing of the decision.

- C. 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 respondents Christine Monsen and Alameda County Transportation Improvement Authority, 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 respondents Christine Mosen and Alameda County Transportation Improvement Authority.

## **ATTACHMENTS**

- Attachment A: Staff's Argument
- Attachment B: Respondent(s) Arguments(s)
- Attachment C: Procedures for Full Hearing, Notice of Hearing and Proof of Service
- Attachment D: September 17, 2014 Board Agenda Item
- Attachment E: September 17, 2014 Board Meeting Transcript (Excerpt)
- Attachment F: Transcripts of Administrative Hearing (March 5, 2014)
- Attachment G: Transcripts of Administrative Hearing (June 13, 2014)
- Attachment H: CalPERS Administrative Hearing Exhibits
- Attachment I: Respondents' Administrative Hearing Exhibits

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Customer Services and Support