



Agenda Item 8f

June 17, 2015

ITEM NAME: Proposed Decision – In the Matter of Julie Stothers Horner as Trustee of the Gloria J. Stothers 1993 Revocable Trust

PROGRAM: Special Programs Division

ITEM TYPE: Action

PARTIES' POSITIONS

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

Respondent Julie Stothers Horner (Respondent Stothers Horner) 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 determination of administrative appeals is a power reserved to the Board of Administration.

PROCEDURAL SUMMARY

Respondent Stothers Horner, as trustee of the Gloria J. Stothers 1993 Revocable Trust, filed claims in Sacramento Superior Court against the Judges' Retirement System (JRS), alleging that the JRS miscalculated the benefits payable to Judge Stephen R. Stothers' surviving spouse by improperly limiting the cost-of-living adjustments to her benefits during her lifetime. Respondent Stothers Horner also alleged that Judge Stothers had been underpaid because he was entitled to four more years of service credit in JRS due to military service performed during and after World War II, which had never been credited to his account. The Superior Court dismissed this case based on failure to exhaust administrative remedies. Respondent Stothers Horner then sought an administrative appeal of CalPERS' denial of her claims. The parties agreed to submit the issues through briefing to the Administrative Law Judge, so no hearing was held. After consideration of the briefs submitted by the parties, the Administrative Law Judge proceeded to decide the case without oral argument. The matter was submitted and the record closed on April 6, 2015. A Proposed Decision was issued on April 21, 2015, 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 April 21, 2015, concerning the appeal of Julie Stothers Horner; 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 April 21, 2015, concerning the appeal of Julie Stothers Horner, 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 April 21, 2015, concerning the appeal of Julie Stothers Horner, 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 appeal of Julie Stothers Horner, 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 Julie Stothers Horner.

BUDGET AND FISCAL IMPACTS: Not applicable

ATTACHMENTS

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

DONNA RAMEL LUM
Deputy Executive Officer
Customer Services and Support