



Agenda Item 8g

June 17, 2015

ITEM NAME: Proposed Decision – In the Matter of the Final Compensation and Rescission of Additional Retirement Service Credit of TERESA JACOBO, Respondent, and CITY OF BELL, Respondent.

PROGRAM: Employer Account Management Division

ITEM TYPE: Action

PARTIES' POSITIONS

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

Respondent Teresa Jacobo (Respondent Jacobo) 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

On February 5, 2007, Respondent City of Bell, purchased on behalf of Respondent Jacobo, five years of Additional Retirement Service Credit (ARSC). On March 8, 2011, Respondent Jacobo submitted an application for service retirement with an effective date of February 28, 2011. CalPERS reviewed the compensation for Respondent Jacobo and reduced the final compensation to be used in the calculation of her retirement allowance to \$673.00 per month. CalPERS also reviewed the purchase by Respondent City of Bell of ARSC on behalf of Respondent Jacobo, and determined that the purchase was invalid and must be rescinded.

Respondent Jacobo appealed this determination and the matter was heard by the Office of Administrative Hearings on October 24, 2014. A Proposed Decision was issued on April 22, 2015, approving the rescission of the ARSC purchase.

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 22, 2015, concerning the appeal of Teresa Jacobo; 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 22, 2015, concerning the appeal of Teresa Jacobo, 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 22, 2015, concerning the appeal of Teresa Jacobo, 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 Teresa Jacobo, 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 Teresa Jacobo.

BUDGET AND FISCAL IMPACTS: Not applicable

ATTACHMENTS

- Attachment A: Proposed Decision
- Attachment B: Staff's Argument
- Attachment C: Respondents' Argument

DONNA RAMEL LUM
Deputy Executive Officer
Customer Services and Support