



Board of Administration Agenda Item 9c

November 16, 2016

Item Name: Proposed Decision – In the Matter of the Calculation of Final Compensation of JAMES TOWNS, Respondent, and SPECIAL DISTRICT RISK MANAGEMENT AUTHORITY, Respondent.

Program: Employer Account Management Division

Item Type: Action

Parties' Positions

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

Respondent James Towns (Respondent Towns) 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 Towns was employed by Respondent Special District Risk Management Authority (Respondent SDRMA) until his retirement on or about December 31, 2009. In August 2012, CalPERS conducted a review of Respondent Towns' compensation and discovered that Respondent Towns received a 67.41% salary increase in July 2005 that does not meet the definition of "compensation earnable" under the California Public Employees' Retirement Law (PERL). As a result, CalPERS revised Respondent Towns' retirement benefit downward from \$17,985.82 to \$13,717.00 per month. Respondent Towns appealed this determination and the matter was heard by the Office of Administrative Hearings on April 22, 23, 24, 27 and 28, 2015 and December 7, 8, 9, 10 and 11, 2015. A Proposed Decision was issued on August 25, 2016, 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 August 25, 2016, concerning the appeal of James Towns; 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 August 25, 2016, concerning the appeal of James Towns, 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 August 25, 2016, concerning the appeal of James Towns, 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 James Towns, 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 James Towns.

Budget and Fiscal Impacts: Not applicable

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