



# Board of Administration Amended Agenda Item 8m

April 19, 2017

**Item Name:** Proposed Decision – In the Matter of the Final Compensation Benefit Calculation of BRADLEY HUDSON, Respondent, and CITY OF RIVERSIDE, Respondent.

**Program:** Employer Account Management Division

**Item Type:** Action

### **Parties' Positions**

Staff argues that the Board of Administration should remand the matter back to the Office of Administrative Hearings for the taking of further evidence regarding whether it would be a hardship to require Respondent Bradley J. Hudson to repay the full amount of the overpaid benefits.

Respondent Bradley J. Hudson (Respondent Hudson) argues that the Board of Administration should adopt the Proposed Decision.

Respondent City of Riverside (Respondent Riverside) argues that the Board of Administration should 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 Hudson served as City Manager for Respondent Riverside. Pursuant to Respondent Hudson's January 16, 2007 and July 23, 2008 employment agreements with Respondent Riverside, he received a 5% stipend for performing additional duties which consisted of serving as Executive Director of Riverside's Redevelopment Agency and Housing Authority. Respondent Hudson submitted an application for service retirement to CalPERS with an effective retirement date of August 13, 2011. CalPERS determined the 5% stipend did not qualify as compensation earnable under the California Public Employees' Retirement Law (PERL) and should not have been included when calculating Respondent Hudson's retirement benefits. Unfortunately, when CalPERS adjusted Respondent Hudson's payrate based on additional information provided by Respondent Riverside, it failed to actually reduce his final compensation to exclude the 5% stipend that was reported by the City as special compensation. CalPERS became aware of this mistake on or around May 12, 2014, and notified Respondent Hudson on May 21, 2014. As a result of CalPERS' mistake, Respondent Hudson received retirement benefits in excess of what he was entitled to receive under the law. The overpayment amount as of May 21, 2014, was \$20,742.14. Respondent Hudson appealed

CalPERS' determination and requested that CalPERS take no action to recover the overpayment amounts until after he had exhausted his administrative appeal rights. The matter was heard by the Office of Administrative Hearings on October 25, 2016. A Proposed Decision was issued on February 1, 2017, finding the following: (1) The 5% stipend does not qualify as compensation earnable under the PERL and should be excluded from the calculation of Respondent Hudson's final compensation; (2) CalPERS may correct errors made to the calculation of Respondent Hudson's retirement benefits; and, (3) CalPERS is not entitled to collect overpayments made to Respondent Hudson prior to May 21, 2014, but that CalPERS is entitled to collect all overpayments that have occurred subsequent to this date.

## 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 February 1, 2017, concerning the appeal of Bradley J. Hudson; 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 February 1, 2017, concerning the appeal of Bradley J. Hudson, 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 February 1, 2017, concerning the appeal of Bradley J. Hudson, 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 Bradley J. Hudson, 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 Bradley J. Hudson.

**Budget and Fiscal Impacts:** Not applicable

**Attachments**

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

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DONNA RAMEL LUM  
Deputy Executive Officer  
Customer Services and Support