
April 19, 2017

Item Name: Proposed Decision – In the Matter of the Appeal to Credit Additional Interest on Retirement Account of SANDRA L. BARON, Respondent, and PUBLIC UTILITIES COMMISSION, Respondent.

Program: Member Account Management Division

Item Type: Action

Parties' Positions

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

Respondent Sandra L. Baron (Respondent Baron) 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 Baron was originally enrolled in 1991 as a member of the second tier retirement plan (Tier Two) at CalPERS by her employer, the State Compensation Insurance Fund (SCIF). No member contributions were required from the member under that plan. She left SCIF employment in 1998 and then returned to work for the California Public Utilities Commission (PUC) in 2005. Despite the fact that the law had changed in 2000 to require that all new employees be enrolled in Tier One unless they specifically elected Tier Two, the PUC enrolled Respondent Baron in Tier Two. This mistake was corrected in 2011 by placing her in Tier One beginning in 2005. As a result, CalPERS computed an underpayment of \$11,673.54 in contributions which were owed by Respondent Baron for the years from 2005-2011. This amount included interest calculated through June 30, 2011.

Respondent Baron diligently and repeatedly contacted both PUC and CalPERS in attempts to pay the amount she owed from the time she was advised of the arrearage. Due to computer problems arising from the implementation of the myCalPERS system, CalPERS was not able to accept her payment until 2014. At the time she sent the payment in 2014, she requested that CalPERS credit her account with the interest that would have accrued had it accepted her payment in 2011. CalPERS declined to credit her account in this manner, and Respondent Baron appealed. The matter was heard by the Office of Administrative Hearings on February 14, 2017 and a Proposed Decision was issued on February 22, 2017, 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 February 22, 2017, concerning the appeal of Sandra L. Baron; 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 22, 2017, concerning the appeal of Sandra L. Baron, 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 22, 2017, concerning the appeal of Sandra L. Baron, 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 Sandra L. Baron, 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 Sandra L. Baron.

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