Agenda Item 9b1

April 17, 2019

Item Name: Proposed Decision – In the Matter of the Appeal Regarding the Final Compensation Calculation of PAUL M. LOMBARDO, Respondent, and LOS ANGELES COUNTY, Respondent.

Program: Employer Account Management Division

Item Type: Action

Parties’ Positions

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

Respondent Paul M. Lombardo’s (Respondent Lombardo) position is included in Attachment C, if any.

Respondent Los Angeles County’s (Respondent County) position is included in Attachment C, if any.

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 Lombardo established membership with CalPERS on April 4, 1993 and has approximately 12.305 years of CalPERS service credit. In July 2005, Respondent Lombardo separated from employment with a CalPERS contracting agency but retained his CalPERS membership. Since July 2005, Respondent Lombardo has been a member with Los Angeles County Employees’ Retirement Association (LACERA), which entered a Reciprocal Agreement with CalPERS on October 1, 1957. Respondent Lombardo was last employed by Los Angeles County (Respondent County) as Fire Captain. Respondent Lombardo applied for service retirement with CalPERS with an effective retirement date of March 31, 2017, and has been receiving his retirement allowance from that date. CalPERS reviewed Respondent Lombardo’s final compensation reported by Respondent County and determined that the reported Sick
Buyback and Vacation Buyback should not be included in Respondent Lombardo’s final compensation for purposes of determining his CalPERS retirement allowance. Respondent Lombardo appealed this determination, and the matter was heard by the Office of Administrative Hearings on January 18, 2019. Due to Respondent Lombardo’s and Respondent County’s failure to appear, the case proceeded as a default under Government Code section 11520. A Proposed Decision was issued on February 12, 2019, affirming CalPERS’ determination and 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 12, 2019, concerning the appeal of Paul M. Lombardo; 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 12, 2019, concerning the appeal of Paul M. Lombardo, 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 12, 2019, concerning the appeal of Paul M. Lombardo, 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 Paul M. Lombardo, 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 Paul M. Lombardo.

**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