



Board of Administration

Agenda Item 9a3

November 17, 2021

Item Name: Proposed Decision – In the Matter of the Appeal Regarding Final Compensation Calculation of BRITT W. WILSON, Respondent, and CITY OF RANCHO MIRAGE, Respondent.

Program: Employer Account Management Division

Item Type: Action

Parties' Positions

Staff argues that the Board of Administration should adopt the Proposed Decision, as modified. Respondent Britt W. Wilson's (Respondent Wilson) position is included in Attachment C, if any. Respondent City of Rancho Mirage's (Respondent City) 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 Wilson entered into a Resignation Settlement Agreement on February 28, 2019, which gave him a promotion and raised his payrate from \$45.48 per hour to \$50.65 per hour. The raise was retroactive to June 18, 2018. The Resignation Settlement Agreement immediately placed Respondent on administrative leave through June 22, 2019, at which time Respondent Wilson agreed to retire. So, Respondent never worked in his promotional position at the hourly rate of \$50.65. Because the raise to \$50.65 was expressly provided for in anticipation of separation from employment and retirement, CalPERS determined that the raise from \$45.48 per hour to \$50.65 should be excluded from Respondent Wilson's final compensation as final settlement pay. Respondent Wilson submitted an appeal regarding his final compensation calculation and the matter was heard by the Office of Administrative Hearings on July 8, 2021. A Proposed Decision was issued on August 10, 2021, affirming CalPERS' determination and denying the appeal.

Alternatives

- A. For use if the Board decides to modify and adopt the Proposed Decision as its own Decision:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, pursuant to Government Code section 11517 (c)(2)(C), which authorizes the Board to "make technical or other minor changes in the proposed decision," hereby modifies the first sentence in the ORDER on page 28 of the Proposed Decision to read "The appeal by Britt Wilson is denied" removing "and the City of Mirage" since Respondent City did not file an appeal, and hereby adopts as its own Decision the Proposed Decision dated August 10, 2021, as modified, concerning the appeal of Britt W. Wilson; RESOLVED FURTHER that this Board Decision shall be effective 30 days following mailing of the Decision.

- B. 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 10, 2021, concerning the appeal of Britt W. Wilson; RESOLVED FURTHER that this Board Decision shall be effective 30 days following mailing of the Decision.

- C. 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 10, 2021, concerning the appeal of Britt W. Wilson, 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.

- D. 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 10, 2021, concerning the appeal of Britt W. Wilson, 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.

- E. 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 Britt W. Wilson, 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 Britt W. Wilson.

Budget and Fiscal Impacts: Not applicable

Attachments

Attachment A: Proposed Decision

Attachment B: Staff's Argument

Attachment C: Respondent(s) Argument(s)

Anthony Suine
Deputy Executive Officer
Customer Services and Support