SACRAMENTO CITY UNIFIED SCHOOL DISTRICT
BOARD OF EDUCATION

Agenda Item# 1 .3

Meeting Date : January 9, 2014

Subject : Resolution No. 2773 : 180-Day Wait Period Exemption

- ☐ Information Item Only
- ☐ Approval on Consent Agenda
- ☐ Conference (for discussion only)
- ☐ Conference/First Reading (Action Anticipated: _____)
- ☐ Conference/Action
- ☒ Action
- ☐ Public Hearing

Department : Business Services

Recommendation : Approve Resolution No. 2773 authorizing the appointment to fill a critically needed position by classified retiree.

Background/Rationale : The Public Employee's Pension Reform Act of 2013 (Government Code §7522 et seq.) restricts school districts that contract with CalPERS from employing classified retired employees for 180 days from the date of their retirement (the "180-Day Wait Period") unless certain conditions are met. Per Resolution No. 2773, it is necessary that Susan Pointer, who is retiring from her position as legal analyst on February 3, 2014, continue to be employed after her retirement on

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT
BOARD OF EDUCATION

RESOLUTION NO. 2773

APPOINTMENT TO FILL A CRITICALLY NEEDED POSITION BY CLASSIFIED RETIREE

WHEREAS, Susan Pointer ("Pointer"), after many years of dedicated service, will be retiring from her classified position as the District's only legal analyst on February 3, 2014; and

WHEREAS, the Public Employee's Pension Reform Act of 2013 (Government Code §7522 et seq.) restricts school districts that contract with CalPERS from employing classified retired employees for 180 days from the date of their retirement (the "180-Day Wait Period") unless certain conditions are met; and

WHEREAS, the District finds it necessary to have Pointer provide specialized training and support to her successor during the 180-Day Wait Period as the only employee in the Legal Services Department; and

WHEREAS, pursuant to CalPERS statutory requirements, Pointer's continued employment in her current position will be of limited duration, will not exceed 960 hours in a fiscal year, will not exceed the maximum monthly base salary paid to other employees performing comparable duties as she is the only employee in the Legal Services Department, and will not receive any benefit, retirement incentive,

This Circular Letter also serves to remind that pursuant to G.C. sections 21224 and

21229:

. 3
What You Should Know Before Working After Retirement 3
Consequences of Unlawful Employment 5
CalPERS Employment in a Temporary Capacity 5
Independent Contractor, Consultant and Contract Employment . . 6
Third-Party Employer 6
Unemployment Insurance Payments for Work
as a Retired Annuitant 7
Special Appointments – The 180-Day Wait Period Does Not Apply 7
Special Appointments – The 180-Day Wait Period Does Apply 8

. 9
Employment With a Non-CalPERS Employer 9
Eligibility to Work for a CalPERS Employer
in a Temporary Capacity 9
Temporary vs. Permanent Employment 10

. 11
Employment With a Non-CalPERS Employer 11
Eligibility to Work for a CalPERS Employer
in a Temporary Capacity 12
Temporary vs. Permanent Employment 12
Eligibility to Work for a CalPERS Employer
in a Permanent Capacity 13
Once Approved Under Government Code Section 21228 . . . 15
Request To Work While Receiving Disability
Industrial Disability Retirement Benefits Form 17

The following contains general information regarding working after retirement. Please read this section and the section that applies to your speci c type of retirement. If you have any questions after reading the contents of this publication, contact CalPERS prior to accepting employment.

What You Should Know Before Working After Retirement

After you have retired, you may think about becoming self-employed, working in private industry or going back to work for your former CalPERS employer or another CalPERS employer (any employer who contracts with CalPERS for retirement bene ts) as a retired annuitant. There are some restrictions you need to know about so you will not jeopardize your CalPERS service, disability or industrial disability retirement bene ts.

Generally you may work in private industry or for an employer that does not contract with CalPERS for retirement bene ts and continue to collect your CalPERS retirement allowance. Some restrictions will apply depending upon whether you are retired for service, disability or industrial disability.

If you intend to work for a CalPERS employer directly as an independent contractor or consultant, your employment is subject to the retirement law restrictions for retired annuitant employment.

If you intend to work for a CalPERS employer through a third-party employer, including your own business entity, your employment will be subject to the retirement law restrictions for retired annuitant employment if the terms of the employment constitute an employer-employee relationship. Please carefully read all pertinent information in this publication to ensure compliance.

A retiree can work for a CalPERS employer without reinstatement
(1) as a temporary “retired annuitant” employee with certain restrictions or
(2) if the position is speci cally exempt from restrictions by retirement law.

180-Day Wait Period: You cannot be employed by a CalPERS employer for a period of 180 days after your retirement date without reinstating from retirement, except under certain conditions. The 180-day waiting period starts from the date of retirement. The exceptions are:

- You are a retired re ghter or retired public safety of cer as de ned in Government Code section 3301 (peace of cer) who will perform re ghter or peace of cer retired annuitant work.
- You will participate in the Faculty Early Retirement Program (FERP) with the California State University (CSU). This participation must be pursuant to a collective bargaining agreement with the CSU that existed prior to January 1, 2013 or has been included in subsequent agreements.
- The public agency or school employer’s governing body presents CalPERS with a resolution, passed in a public meeting, that approves

the appointment in which the employer has certi ed the nature of the employment and that the appointment is necessary to ll a critically needed position before 180 days have passed. The appointment may not be placed on a consent calendar.

- The State employer via the Department of Human Resources (CalHR) presents CalPERS with certi cation, approved by CalHR, of the nature of the employment and that the employment is necessary to ll a critically needed position before 180 days have passed.

The 180-day wait period provision applies without exception if you receive a Golden Handshake or any other employer incentive to retire.

All service retirees who are under normal retirement age at retirement must meet the bona de separation in service requirement even if an exception to the 180-day wait period applies.

As a retired annuitant, you do not accrue service credit or otherwise acquire any additional retirement bene ts from the retiree employment. Appointment to a permanent position, whether part-time or full-time, requires reinstatement from retirement into active employment unless the employment quali es you for membership in the University of California Retirement Plan (UCRP), the California State Teachers' Retirement System (STRS), or any other public pension system.

Exception: Certi cated employees who elect to remain in CalPERS and then retire and accept a temporary assignment in a classi ed or certi cated position in a school are subject to the restrictions in the retirement law.

Before accepting employment with any employer, it is your responsibility to:

- Ask if they contract with CalPERS for retirement bene ts.
- Inform the employer that you are receiving retirement bene ts from CalPERS and specify the type of retirement, i.e., service, disability, or industrial disability.
- Ensure the employment will be in compliance with retirement law.

Once hired, it is your responsibility and your employer's to ensure your employment remains in compliance and, therefore, does not jeopardize your retirement bene ts during the course of your employment.

Consequences of Unlawful Employment

Retiree employment found to be in violation of CalPERS law and regulations (unlawful employment) can result in your mandatory reinstatement from retirement.

If you are employed by any CalPERS employer in either a permanent part-time or permanent full-time position not specifically permitted under CalPERS law, you will be considered unlawfully employed. Unlawful employment may result in mandatory reinstatement from retirement retroactive to the date the unlawful employment occurred.

If you are employed by any CalPERS employer in any permanent or regular staff position not specifically permitted under retirement law, you will be unlawfully employed.

If you are reinstated, you will be required to reimburse CalPERS the amount of retirement allowance you received during the period of unlawful employment. In addition, through your employer, you will be required to pay the retroactive CalPERS member contributions, plus interest, equal to the amount that would have been paid had your reinstatement occurred timely. You could also be assessed the cost of any administrative expenses incurred to process your mandatory reinstatement, to the extent you are determined to be at fault. Reinstatement due to unlawful employment could also jeopardize any health benefit entitlement you may have from your current retirement.

Likewise, the CalPERS employer who unlawfully employed you will be required to pay retroactive employer contributions, plus interest, equal to the amount of employer contributions that would have been paid had your reinstatement occurred timely. Your employer could also be assessed the cost of any administrative expenses incurred to process your mandatory reinstatement, to the extent the employer is determined to be at fault.

For more information about reinstatement from retirement into active employment, please review our publication A Guide to CalPERS Reinstatement from Retirement, which contains the application for reinstatement. This publication is available on the CalPERS website at www.calpers.ca.gov or you may request it by calling our toll free telephone number at 888 CalPERS (or 888-225-7377).

CalPERS Employment in a Temporary Capacity

CalPERS approval is not required for temporary, limited-term employment as a retired annuitant. Eligibility requirements can vary depending upon whether you are retired for service, disability, or industrial disability, and your age at retirement.

Eligible retirees can work for a State agency, university, public employer, or school employer contracted with CalPERS without reinstatement from retirement into active employment, if all of the following conditions are met.

- You have specialized skills needed to perform work of limited duration or your employment is needed during an emergency to prevent stoppage of public business.
- Your temporary employment will not exceed 960 hours in a scal year (July 1st through June 30th).
- The compensation cannot exceed the maximum monthly base salary paid to other employees performing comparable duties, divided by 173.333 to equal an hourly rate.
- Retired annuitants cannot receive any bene t, incentive, compensation in lieu of bene ts, or other form of compensation in addition to the hourly pay rate.

Note: Retired annuitant employment with a State agency is limited to retirees who have civil service eligibility from previous State agency employment or who qualify for appointment under an applicable civil service employment list. Contact the Department of Human Resources (CalHR) at www.CalHR.ca.gov for additional information.

California State University (CSU) academic staff retirees can work as retired annuitant academic staff for CSU without reinstatement as long as the employment is temporary and does not exceed a total for all employers of 960 hours in a scal year or 50 percent of the hours employed during the last scal year prior to retirement, whichever is less.

Independent Contractor, Consultant and Contract Employment

If you are employed under a direct contract with a CalPERS employer as an independent contractor, consultant or contract employee, your employment is subject to retired annuitant restrictions.

Third-Party Employer

If you are employed through a third-party employer, including your own business entity, and the terms of the employment constitute a -0tract otal for all eh

Unemployment Insurance Payments for Work as a Retired Annuitant

California law prohibits reappointment of a retired annuitant by a CalPERS employer if, during the 12-month period prior to reappointment, the retiree received unemployment insurance compensation for prior retired annuitant employment with any public employer.

If you are working as a retired annuitant and it is discovered that during the previous 12 months you were paid unemployment insurance based on prior retired annuitant employment with any public employer, your employment must be terminated on the last day of the current pay period. You will not be eligible for reappointment as a retired annuitant by that employer for 12 months

Below is information related to working after service retirement. Please read all of this section, along with the What All Retirees Should Know section at the beginning of this publication. If you have any questions after reading the contents of this publication, contact CalPERS prior to accepting employment.

Employment With a Non-CalPERS Employer

You do not need CalPERS approval to work for a non-CalPERS employer. Service retirees can be self-employed or work for a private industry employer without restrictions and continue to receive their monthly retirement allowance.

Eligibility to Work for a CalPERS Employer in a Temporary Capacity

CalPERS service retirees may seek limited-term employment as a retired annuitant without CalPERS approval but cannot be employed in permanent part-time, regular staff positions regardless of the number of hours worked. The following restrictions to post-retirement employment apply:

Bona de separation requirement: Temporary employment as a retired annuitant with a CalPERS employer is not allowed if you are younger than the normal service retirement age, unless both of the following conditions are met:

- There is no verbal or written agreement to return to work as a retired annuitant between you and any CalPERS employer before you retired.
- There is a termination of employment (separation in service) for 60 days between your retirement date and the date your temporary employment as a retired annuitant will begin.

Normal service retirement age for CalPERS purposes is the bene t formula age shown in your retirement formula, e.g., age 55 for the 2% @ 55 formula, age 60 for the 3% @ 60 formula, and 65 for the 1.25% @ 65 formula. If your

Eligibility to Work for a CalPERS Employer in a Temporary Capacity

CalPERS disability and industrial disability retirees may seek temporary, limited-term employment as retired annuitants without CalPERS approval. However, certain restrictions apply:

You are limited to working no more than 960 hours for all employers per scal year when working in a temporary capacity.

Note: Temporary employment must not exceed the work limit of 960 hours per scal year. Both you and your employer are responsible for monitoring compliance with this work limit. If you exceed the work limit, both you and your employer will be held accountable for unlawful employment. The consequences can include your mandatory reinstatement from retirement into active employment (membership) in the current position.

Temporary vs. Permanent Employment

If you intend to remain retired, you may accept only a temporary appointment as a retired annuitant with any CalPERS employer, unless the employment is speci cally allowed by law. You should apply only for those positions that are designated as retired annuitant positions.

Because many permanent part-time positions require less than 960 hours per scal year, there is often confusion about whether retirees can work in such positions. If you intend to work as a permanent employee or in a regular staff position with any CalPERS employer, even if the position requires less than 960 hours per scal year, the retirement law requires you to reinstate from retirement into active employment. To ensure compliance, con rm with your prospective employer that you are accepting a retired annuitant appointment and that the position is not a permanent or regular staff position, regardless of the number of hours required to work in the position.

For more information about reinstatement from retirement into active employment, please review the publication A Guide to CalPERS Reinstatement from Retirement, which contains the application for reinstatement. This publication is available at CalPERS On-Line at www.calpers.ca.gov or you may request it by calling our toll free telephone number at
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Eligibility to Work for a CalPERS Employer in a Permanent Capacity

Under Government Code Section 21228, disability or industrial disability retirees may seek permanent employment while receiving retirement bene ts with CalPERS approval. However, certain restrictions apply:

You may apply to work in a permanent part-time or full-time position with a CalPERS employer while receiving your retirement bene ts. You must submit the Request to Work While Receiving Disability/Industrial Disability Retirement Bene ts form and the Physical Requirements of Position/ Occupational Title form located in the back of this publication and all required documents. You must have CalPERS written approval before beginning employment. Your job duties must differ signi cantly from those required under the position from which you retired. That is, the position should not include duties or activities you were previously restricted from performing at the time of your retirement. If you are approved to work, you will be required to report your earnings to CalPERS and your retirement allowance will be subject to an earnings limit.

In order to request approval to work for a CalPERS employer in a permanent position while receiving disability or industrial disability bene ts, you must submit the following required documents to CalPERS:

- Request to Work While Receiving Disability/Industrial Disability Retirement Bene ts form
  - Section 1, you complete and sign.
  - Section 2, your prospective employer completes and signs.

- Physical Requirements of Position/Occupation Title form
  You and your prospective employer must complete all sections and sign jointly.

- Position duty statement
  - Submit to CalPERS a position duty statement provided by your prospective employer that describes the permanent position in which you wish to work.

- Current medical report(s)
  - You must schedule an appointment with a specialist for the disabling condition(s) that precluded you from working, and provide the specialist with a copy of the position duty statement and the completed Physical Requirements of Position/Occupational Title form.
  - Provide to CalPERS a current medical report from that specialist. If you had more than one disabling condition at the time of retirement, you must provide a medical report on appropriate letterhead from each medical specialist. The specialist(s) must include the following pertinent information in their medical report:

Required Documents

- A completed Request to Work While Receiving Disability/Industrial Disability Retirement Bene ts form.
- A completed Physical Requirements of Position/Occupational Title form.
- A position duty statement for the prospective job.
- A current medical report from a medical specialist.

- Patient (name) and the date of the most recent examination.
- Con rmation that the specialist reviewed and discussed with the patient the position duty statement (by title) and the Physical Requirements of Position/Occupational Title form.
- Whether or not the patient has any limitations or restrictions to performing all tasks involved.
- Speci c details explaining the restrictions, if any.
- Specialist's signature, printed name, medical specialty, and contact information.

- Additional medical report(s) for local safety retirees
  - If you are a local safety disability or local safety industrial disability retiree, you must also submit the medical documentation used at the

Once Approved Under Government Code Section 21228

Retirees approved to work under Government Code Section 21228 do not accrue service credit or otherwise acquire retirement rights for employment as a retiree.

You will be informed of the amount of your earnings limit and how to report your earnings. The total employer-paid portion of your monthly retirement benefit and your new earnings cannot be greater than the current compensation of the position from which you retired. If it is greater, your retirement benefit will be reduced. The earnings limitation continues as long as you are employed in the approved position; it does not end when you reach your service retirement age.

Note: If you wish to change to a different employer or a different position (lateral transfer or with promotion) or if you wish to restart employment in a previously approved position, you must reapply to CalPERS and await our approval before beginning employment. If you do not receive prior approval, you will be considered unlawfully employed. There are no exceptions to this requirement.

Once approved, you will be informed of the amount of your earnings limit and how to report your earnings.

If you wish to change to a different employer or a different position or restart employment in a previously approved position, you must reapply to CalPERS and await our approval before beginning employment.

C l

Put your name and Social Security number or CalPERS ID at the top of every page

Your Name | Social Security Number or CalPERS ID

Section 2

Employer Certi cation

Permanent employment or changes in employment status (e.g., lateral transfer or promotion) that begins prior to written approval from CalPERS may result in mandatory reinstatement.

It is the intent of: _____ (Employer) to hire: _____ (CalPERS Member)

in the position of: _____ (Job Title) pursuant of Government Code Section 21228;

and contingent upon written approval from CalPERS.

Employer Address (City, State, ZIP Code)

Daytime Phone | Fax Number | E-Mail Address

We understand that reinstatement of the retiree, due to unlawful employment, to any position within our agency, may result in penalties and payment of contributions to CalPERS, retroactive to retiree's date of hire.

The salary range for this position is: _____ hourly/monthly.

Employer Signature | Date (mm/dd/yyyy)

Print Name of Authorized Personnel | Classification Title

Mail to: CalPERS Bene t Services Division, P.O. Box 2796, Sacramento, California 95812-2796

Section 1

Member Information

This form must be completed by the member and their employer to supplement the physical requirements listed on the member's job duty statement/job description.

Name of Member (First Name, Middle Initial, Last Name)

Social Security Number or CalPERS ID

Position/Occupational Title

Name of Employer

Worksite Street Address

City

State

ZIP

Put your name and Social Security number or CalPERS ID at the top of every page.

Activity	Never	Occasionally Up to 3 hours	Frequently		

CalPERS On-Line

Visit our website at www.calpers.ca.gov for more information on all your bene ts and programs.

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Visit Your Nearest CalPERS Regional Office

Fresno Regional Of ce
10 River Park Place East, Suite 230
Fresno, CA 93720

Glendale Regional Of ce
Glendale Plaza
655 North Central Avenue, Suite 1400
Glendale, CA 91203

Orange Regional Of ce
500 North State College Boulevard, Suite 750
Orange, CA 92868

Sacramento Regional Of ce
Lincoln Plaza East
400 Q Street, Room E1820
Sacramento, CA 95811

San Bernardino Regional Of ce
650 East Hospitality Lane, Suite 330
San Bernardino, CA 92408

San Diego Regional Of ce
7676 Hazard Center Drive, Suite 350
San Diego, CA 92108

San Jose Regional Of ce
181 Metro Drive, Suite 520
San Jose, CA 95110

Walnut Creek Regional Of ce
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The Information Practices Act of 1977 and the Federal Privacy Act require the California Public Employees' Retirement System to provide the following information to individuals who are asked to supply information. The information requested is collected pursuant to the Government Code (Sections 20000, et seq.) and will be used for administration of the CalPERS Board's duties under the California Public Employees' Retirement Law, the Social Security Act, and the Public Employees' Medical and Hospital Care Act, as the case may be. Submission of the requested information is mandatory. Failure to supply the information may result in the System being unable to

GOVERNMENT CODE - GOV

7522.56.

(a) This section shall apply to any person who is receiving a pension benefit from a public retirement system and shall supersede any other provision in conflict with this section.
(b) A retired person shall not serve, be employed by, or be employed through a contract directly by, a public employer in the same public retirement system from which the retiree receives the benefit without reinstatement from retirement, except as permitted by this section.
(c) A person who retires from a public employer may serve without reinstatement from retirement or loss or interruption of benefits provided by the retirement system upon appointment by the appointing power of a public employer either during an emergency to prevent stoppage of public business or because the retired person has skills needed to perform work of limited duration.
(d) Appointments of the person authorized under this section shall not exceed a total for all employers in that public retirement sys Tslts .4(1.1(l)5.3(l)]TJ29(h)63)5.3901 1

(f) A retired person shall not be eligible to be employed pursuant to this section for a period of 180 days following the date of retirement unless he or she meets one of the following conditions:

(1) The employer certifies the nature of the employment and that the appointment is necessary to fill a critically needed position before 180 days have passed and the appointment has been approved by the governing body of the employer in a public meeting. The appointment may not be placed on a consent calendar.

(2) The state employer certifies the nature of the employment and that the appointment is necessary to fill a critically needed state employment position before 180 days have passed and the appointment has been approved by the Department of Human Resources. The department may establish a process to delegate appointing authority to individual state agencies, but shall audit the process to determine if abuses of the system occur. If necessary, the department may assume an agency's appointing authority for retired workers and may charge the department an appropriate amount for administering that authority.

(3) The retiree is eligible to participate in the Faculty Early Retirement Program pursuant to a collective bargaining agreement with the California State University that existed prior to January 1, 2013, or has been included in subsequent agreements.

(4) The retiree is a public safety officer or firefighter hired to perform a function or functions regularly performed by a public safety officer or firefighter.

(g) A retired person who accepted a retirement incentive upon retirement shall not be eligible to be employed pursuant to this section for a period of 180 days following the date of retirement and subdivision (f) shall not apply.

(h) This section shall not apply to a person who is retired from the State Teachers' Retirement System, and who is subject to Section 24214, 24214.5, or 26812 of the Education Code.

(i) This section shall not apply to (1) a subordinate judicial officer whose position, upon retirement, is converted to a judgeship pursuant to Section 69615, and he or she returns to work in the converted position, and the employer is a trial court, or (2) a retiree who takes