



BOARD OF RETIREMENT

Staff Report

File #: 22-199

Agenda Date: 6/2/2022

Agenda #: 2.

FROM: Barbara Hannah, Chief Counsel

SUBJECT: Request for Determination by Sheriff's Employees' Benefit Association regarding the Pensionability of a "Straddled" Annual Leave Cash-Outs in Connection with SBCERA's Implementation of *Alameda*.

RECOMMENDATION:

Determination to approve or deny the request of Sheriff's Employees' Benefit Association for the Board to determine SBCERA's limitation of the amount of annual leave cash-outs included as "compensation" under Government Code section 31460 and "compensation earnable" under Government Code section 31461, pursuant to Government Code section 31534 as to whether members can only include in their final compensation annual leave cash-outs which is pensionable and earnable in a calendar year as opposed to a twelve-month period.

BACKGROUND:

Sheriff's Employees' Benefit Association (SEBA or Applicant) appeals the Board's implementation of *Alameda* as to SBCERA's limitation of the amount of "compensation earnable" included when calculating annual leave cash-outs payable within a calendar year for purposes of determining a member's retirement allowance, regardless of when those amounts are reported to SBCERA or paid to the member.

In this proceeding, the parties stipulated to submit their arguments to the Board for consideration and ruling.

On April 1, 2022, Applicant submitted their Opening Brief regarding Pensionability of Annual Leave Cash-Outs (Exhibit A) and Declaration of Nancy Tate in Support of SEBA's Opening Brief (Exhibit B).

On May 5, 2022, Respondent SBCERA submitted its Responsive Brief in Opposition to Appellant's Opening Brief re Pensionability of Annual Leave Cash-Outs (Exhibit C) and Declaration of Debby Cherney in Support of SBCERA's Responsive Brief (Exhibit D).

Applicant, San Bernardino County Employee's Benefit Association (SEBA) is represented by attorney Jacob Kalinski.

Respondent, SBCERA is represented by attorneys Ashley Dunning and Aalia Taufiq of Nossaman, LLP.

SEBA and SBCERA's respective counsel will have an opportunity to present oral arguments to the Board addressing the issues set forth above. Each side will have 5 minutes for argument with 2 minutes of rebuttal. The chair or a majority of the Board (by vote) may extend the time for argument

equally for both sides. The sequence of oral argument is as follows: (1) SEBA's opening argument (2) SBCERA's opening argument (3) SEBA's rebuttal and (4) SBCERA's rebuttal. Counsels may divide their oral argument among multiple counsels.

BUDGET IMPACT:

None.

STRATEGIC PLANNING GOAL/OBJECTIVE:

Superior Service Experience

STAFF CONTACT:

Barbara Hannah

ATTACHMENTS:

- Exhibit A: SEBA's Opening Brief re Pensionability of Annual Leave Cash-Outs
- Exhibit B: Declaration of Nancy Tate in Support of SEBA's Opening Brief
- Exhibit C: Respondent, SBCERA's Responsive Brief in Opposition to Appellant's Opening Brief re Pensionability of Annual Leave Cash-Outs
- Exhibit D: Declaration of Debby Cherney in Support of SBCERA's Responsive Brief