
PUBLIC PENSIONS - CALIFORNIA

Hale v. California Public Employees' Retirement System

Court of Appeal, First District, Division 3, California - August 29, 2022 - Cal.Rptr.3d - 2022 WL 3713449

Retired firefighters with California's Department of Forestry and Fire Protection who had served as executive officers for union sought judicial review of ALJ's proposed decision that was adopted by California Public Employees' Retirement System board (CalPERS), concluding that cash-outs or buy-downs of holiday leave credits were not compensation earnable and therefore should not be included in final compensation for purposes of calculating monthly retirement allowances.

Union officers petitioned for writ of administrative mandamus. The Superior Court denied petition. Union officers appealed.

The Court of Appeal held that:

- Rule defining special compensation items for members employed by contracting agency and school employers that must be reported to CalPERS did not control whether holiday cash-outs were special compensation that were required to be included in calculating pensions;
- Cash-outs met the statutory definition of special compensation, and thus were required to be included in income when calculating pension benefits;
- Characterization of group or class was the union bargaining unit, rather than class-of-two consisting of union officers alone;
- Cash-outs were not required to be available to all members of bargaining unit, regardless whether they were similarly situated, to be considered special compensation; and
- Court would take judicial notice of decision indicating that CalPERS had taken inconsistent positions on whether state members were subject to rule.

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