



Board Agenda Item 7

DATE: October 24, 2023

TO: Board of Supervisors

SUBMITTED BY: Lisa A. Smittcamp, District Attorney

SUBJECT: Resolution to Fill District Attorney Positions with Extra-Help Retirees - California Public Employees' Pension Reform Act Exception

RECOMMENDED ACTION(S):

Adopt resolution to fill a Senior Deputy District Attorney position with Extra-Help retiree, Susan Rand, effective October 30, 2023, finding, pursuant to Government Code Section 7522.56 (f)(1), that a 180-day separation period for retired employees returning to employment as Extra-Help is not applicable based on your Board's certification that the nature of employment and appointment is necessary to fill a critically needed position before the 180-day separation period.

Approval of the recommended action will adopt a resolution consistent with exceptions identified in the provisions of Government Code section 7522.56 (f)(1) which state that, except in certain critically needed positions, retirees are subject to a 180-day separation ("sit-out") period following the date of retirement for employees who are re-employed by a public agency within the same retirement system. The recommended action meets the requirements of the California Public Employees' Pension Reform Act (PEPRA), which went into effect January 1, 2013. This item is countywide.

ALTERNATIVE ACTION(S):

Should your Board not approve the recommended action, there would be a reduction in experienced attorneys for the prosecution of criminal cases.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended actions. Sufficient appropriations and revenues for the appointments are included in the FY 2023-24 District Attorney Org 2860 Adopted Budget. Appropriations for FY 2024-25, if required, will be included in the department's budget request.

DISCUSSION:

On September 12, 2012, the California Public Employees' Pension Reform Act, which is known as "PEPRA" (Assembly Bill 340), was signed into law effective January 1, 2013. Additionally, Assembly Bill 197, which amends a portion of the 1937 Act, was signed into law the same date to become effective January 1, 2013. The PEPRA legislation includes provisions in Government Code section 7522.56 requiring a 180-day separation ("sit-out") period following the date of retirement for retirees who are re-employed by a public agency within the same retirement system as an employee or through a contract unless:

- The employee is a “public safety officer”, or
- The employer certifies the nature of the employment, and that appointment is necessary to fill a critically needed position before the 180 days has passed.

For the second exception above, legislation stipulates that your Board, as the employer’s governing body, must approve, by resolution, the appointment in a public meeting and not on the consent calendar.

Senior Deputy District Attorney, Susan Rand, has an extensive background with over twenty-five years of County experience as an attorney. This experience has given her a unique understanding of the District Attorney’s Office and California law, with extensive knowledge in juvenile prosecution and calendar management. Ms. Rand will be able to assist the District Attorney’s Office with case filings, appearing in court when coverage is needed, and training newly hired staff.

It is anticipated that the need for Ms. Rand to work extra help will continue until the District Attorney is able to fill the vacant attorney positions. In this part-time, extra-help capacity, Ms. Rand will return as a Senior Deputy District Attorney and not work more than 960 hours during the year as set forth in PEPRA. The District Attorney will be subject to, and will comply with, all other Extra-Help rules and requirements.

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Resolution

CAO ANALYST:

Fine Nai