



Board Agenda Item 7.1

DATE: April 11, 2023

TO: Board of Supervisors

SUBMITTED BY: John Zaroni, Sheriff-Coroner-Public Administrator

SUBJECT: Resolution to Fill Sheriff-Coroner-Public Administrator Position with Extra Help Retiree - California Public Employees' Pension Reform Act Exception and Waiver of Extra-Help Maximum Hours Limitation

RECOMMENDED ACTION(S):

- 1. Adopt resolution to fill a Sheriff's Account Clerk position with Extra-Help retiree Violeta Nicolas, part-time, effective April 17, 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 certification that the nature of employment and appointment is necessary to fill a critically-needed position before the 180 day separation period; and**
- 2. Authorize a waiver of the 28 hours per week and/or 960 hours per calendar year maximum hours limitation for the Extra-Help position listed on Attachment A in the Sheriff's Office, pursuant to the provisions set forth in the Salary Resolution, section 1100 and Personnel Rules 2040 and 4240.**

There is no additional Net County Cost associated with the recommended actions. Approval of the first recommended action will adopt a resolution consistent with exceptions identified in the provisions of Government Code section 7522.56 (f) (1) that, except 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 also went into effect January 1, 2013. Approval of the second recommended action allows the Sheriff to address operational needs seven days a week. This item is countywide.

ALTERNATIVE ACTION(S):

Your Board could choose to not approve the recommended actions, which would result in a loss of expertise to address operational needs and sustain essential services in the Sheriff's Office.

FISCAL IMPACT:

There is no increase in Net County Cost associate with the recommended actions. Sufficient appropriations and estimated revenues for the appointment(s) and for any additional cost which could be assessed under the Affordable Care Act (ACA) are included in the FY 2022-23 Recommended Budget for Sheriff's Org 3111.

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 with the same retirement systems 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.

Supervising Account Clerk Violeta Nicolas has been an integral part of the Sheriff's Business Office for the last 17 years and has irreplaceable knowledge of the payroll functions including but not limited to processing payroll for 1,257 employees with over 12 MOU's and inputting timesheet data for various types of leaves. The specialty of Payroll's Account Clerk position will require an extended period of time to train the replacement. It is anticipated that the need for Ms. Nicolas to work extra-help will continue until the Sheriff is able to fill the vacant Account Clerk position and train the successful candidate. In this part-time, extra-help capacity, Ms. Nicolas will return as an Account Clerk II and not work more than 960 hours during the year as set forth in PEPRA. The Sheriff will be subject to, and will comply with, all other extra-help rules and requirements.

The Fresno County Employees' Retirement Association and the County Human Resources - Employee Benefits Division have reviewed this item and have no objections to Ms. Nicolas's extra-help employment.

On January 13, 2015 and June 7, 2016 your Board reiterated County policy that the use of Extra-Help employees should:

- be of limited duration;
- not be used as a first response to staffing requirements;
- not supplant work regularly performed by permanent employees; and
- only be used to meet the critical, seasonal, or temporary work needs of departments on a limited basis.

On June 7, 2016, your Board approved Salary Resolution Amendments that provided departments with the requested flexibility, while limiting the use of most Extra-Help employees. As provided in those Amendments, the Sheriff's Office is recommending a waiver of the 28 hours a week and/or 960 hours per calendar year limitation for the position(s) listed on Attachment A due to:

Sheriff's Student Workers JCN 9785:

The Extra-Help Student Workers are utilized within various Sheriff Units including but not limited to the units identified below:

Business Office - is short staffed due to vacancies and uses the Student Worker's assistance as part of necessary daily operations.

Your Board's approval of the recommended action will allow the position on Attachment A in the Sheriff's

Office to exceed the Extra-Help per week maximum hour limitation for Calendar Year 2023.

REFERENCE MATERIAL:

BAI #37, June 7, 2016

BAI #19, January 13, 2015

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Resolution

Attachment A

CAO ANALYST:

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