



Board Agenda Item 7

DATE: March 7, 2017

TO: Board of Supervisors

SUBMITTED BY: Lisa A. Smittcamp, District Attorney-Public Administrator

SUBJECT: Resolution to Fill Deputy District Attorney Position with Extra-Help Retiree - California Public Employees' Pension Reform Act Exception

RECOMMENDED ACTION(S):

Adopt resolution to fill a Deputy District Attorney position with Extra-Help retiree Keith McWilliams, part time, effective March 7, 2017, 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) 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 went into effect January 1, 2013.

ALTERNATIVE ACTION(S):

Your Board could choose to not approve the recommended action, which would result in a delay of the implementation of the new case management system by several months, affecting public safety.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended action. Sufficient appropriations and revenues for the appointment are included in the current year budget and will be included in the requested FY 2017-18 budget for District Attorney Org 2860.

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.

The District Attorney-Public Administrator's (DA-PA) computer case management system (CMS) is critical to the efficient functioning of the DA-PA's Office. It is relied upon by every DA-PA employee who handles criminal cases to store accurate information, generate criminal charging documents, and provide calendaring alerts for prosecutors who must handle these cases in court. Deputy District Attorney (DDA) Keith McWilliams has a background in computer technology that has given him a unique skill set to allow him to understand what is required to handle criminal cases in court as a line prosecutor and translate the technical capabilities and obstacles that exist with the CMS. As the DA-PA has moved forward with implementation of its new CMS, DDA McWilliams has been the DA-PA Project Manager for this process. He has worked to prepare the existing system so that its information can be transferred to the new system. His knowledge of the current CMS and office workflow, as well as his working relationship with both the courts and the various law enforcement agencies has kept the project moving forward efficiently. The DA-PA's Office has attempted to find a replacement who possesses the requisite skill set without success. Because of DDA McWilliams' unique knowledge of the internal workings of the DA-PA's Office and his technical knowledge of the current and new CMS, his unavailability would set the project back by several months.

It is anticipated the need for DDA McWilliams to complete his Project Manager duties for the CMS would be part-time and short-term through the late summer/early fall of 2017. As such, in this part-time, extra-help capacity, DDA McWilliams will not work more than 960 hours during the year as set forth in PEPRA. The DA-PA 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:

Jeannie Z. Figueroa