



# Board Agenda Item 7.2

DATE: April 11, 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):

- 1. Adopt resolution to fill a District Attorney Business Manager position with Extra-Help retiree, Stephen Rusconi, 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's certification that the nature of employment and appointment is necessary to fill a critically needed position before the 180-day separation period; and**
- 2. Adopt resolution to fill a Program Technician II position with Extra-Help retiree, Elizabeth Jacobsen, 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'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 actions will adopt resolutions 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 actions meet 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 oversight and experience in budget development and financial operations in the immediate future.

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 2022-23 District Attorney Org 2860 Adopted Budget. Appropriations for FY 2023-24, 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.

DA Business Manager, Stephen Rusconi, has an extensive background with over thirty-one years of County experience in various financial positions, the last twenty-six years managing the DA Business Office and associated staff members. This experience has given him a unique perspective of the DA's Office combined with an extensive understanding of the County's financial system making him critical to the development and implementation of the FY 2023-24 budget.

It is anticipated that the need for Mr. Rusconi to work extra help will continue until the budget process is complete and the DA is able to fill the position. It is anticipated the need will be limited to a few months. In this part-time, extra-help capacity, Mr. Rusconi will return as a Business Manager and not work more than 960 hours during the year as set forth in PEPRA. The DA will be subject to, and will comply with, all other Extra-Help rules and requirements.

Program Technician II, Elizabeth Jacobsen, has been an integral part of the DA Business Office for the last 22 years. Over that time, she has become the point person for everyday business office operations. The loss of her institutional knowledge, most notably, her work on the California Witness Relocation Assistance Program (Cal WRAP), will be difficult to replace and makes her critical to the DA Business Office.

It is anticipated that the need for Ms. Jacobsen to work extra help will continue until the DA is able to fill the vacant position and train the successful candidate. It is anticipated the need will be limited to a few months. In this part-time, extra-help capacity, Ms. Jacobsen will return as a Program Technician II and not work more than 960 hours during the year as set forth in PEPRA. The DA 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 (Rusconi)  
On file with Clerk - Resolution (Jacobsen)

CAO ANALYST:

Samantha Buck