



Board Agenda Item

DATE: March 24, 2020

TO: Board of Supervisors

SUBMITTED BY: Dawan Utecht, Director of Behavioral Health

SUBJECT: Behavioral Health Waiver of Extra-Help Maximum Hour Limitation

RECOMMENDED ACTION:

- 1. Adopt resolution to fill a Psychiatric Mental Health Nurse Practitioner and Division Manager - Managed Care position with Extra-Help retirees Elizabeth Fox and Betty Brown (respectively), Part-time, effective March 30, 2020, 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.**
- 2. Authorize a waiver of 28 hours per week to allow for the Extra-Help positions listed on Attachment A to work 40 hours per week, not to exceed 960 hours per calendar year, due to the urgent need for staff in response to COVID-19, pursuant to the provisions set forth in Salary Resolution, section 1100 and Personnel Rules 2040 and 4240.**

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 went into effect January 1, 2013. Approval of the second recommended action will waive the 28 hours per week provision to allow for Extra-Help positions to work 40 hours a week allows for urgent response to COVID-19 with in Fresno County. This item is countywide.

ALTERNATIVE ACTION:

There is no viable alternative to immediately fill this position due to the Department's critical needs to support service operations in response to COVID-19.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended action. 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 2019-20 Department of Behavioral Health Org 5630 Adopted Budget.

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.

On March 27, 2020, Psychiatric Mental Health Nurse Practitioner, Elizabeth Fox and Division Manager - Managed Care, Betty Brown will retire. The Department requests a Waiver of Extra-Help to be in place on Monday, March 30, 2020 for the positions. Thus, meeting a critical need in response to COVID-19 efforts before the 180 days' time frame.

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 Department of Behavioral Health is recommending a waiver of the 28 hours a week limitation for the position(s) listed on Attachment A due to the emergency situation caused by the COVID-19 pandemic and critical need of the two positions requested (Psychiatric Mental Health Nurse Practitioner and Division Manager - Managed Care) over the next 5 months. The Department is making every effort to comply with the urgent direction from Public Health officials' and CDC recommendations and as such, these implemented strategies are directly impacting the Department's ability to recruit essential positions to replace the Psychiatric Mental Health Nurse Practitioner and Division Manager - Managed Care. Additionally, during this state of emergency, the positions are critical to ensure Fresno County residents in critical need of mental health and/or substance use disorder services receive the appropriate care.

Your Board's approval of the recommended actions will allow the Department to waive the 180-day separation period and exceed the 28 hours a week maximum hour limitation for the position(s) listed in Attachment A.

REFERENCE MATERIAL:

BAI #37, June 7, 2016
BAI #19, January 13, 2015

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachment A
On file with Clerk - Resolution

CAO ANALYST:

Ronald Alexander