



# County of Fresno

Hall of Records, Rm. 301  
2281 Tulare Street  
Fresno, California  
93721-2198

## Legislation Text

---

**File #:** 17-0701, **Version:** 1

---

**DATE:** June 20, 2017

**TO:** Board of Supervisors

**SUBMITTED BY:** Margaret Mims, Sheriff-Coroner

**SUBJECT:** Resolution to Fill Correctional Lieutenant Position with Extra-Help-Retiree-  
California Public Employees' Pension Reform Act Exception

### RECOMMENDED ACTION(S):

**Adopt resolution to fill a Sheriff-Coroner's Correctional Lieutenant position with Extra-Help retiree, Elias Mendez, part time, effective July 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 the full time Correctional Lieutenants working further overtime to staff the shifts that would be covered by this extra-help employee.

### FISCAL IMPACT:

There is no additional Net County Cost associated with the recommended action. Sufficient appropriations and revenues for the appointment will be included in the department's FY 2017-18 recommended 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.

The Sheriff-Coroner's Correctional Lieutenants are critical to the supervision of Jail staff and a Correctional Lieutenant who is a peace officer is legally required to be on duty in the Jail 7 days per week, 24 hours a day to supervise Correctional Officers and Correctional Sergeants. Mr. Mendez retired effective July 6, 2017. The Correctional Sergeant promoted to fill the Correctional Lieutenant vacancy will be required to attend a seven month Peace Officers Standards and Training (POST) academy. To keep from adding more overtime shifts, it is important that Mr. Mendez be able to work part-time as an extra-help retiree until the promoted Correctional Sergeant returns from training. In this part time, extra-help capacity, Mr. Mendez will not work more than 960 hours during the year as set forth in PEPR. The Sheriff-Coroner will still 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