

**Sierra County
Board of Supervisors'
Agenda Transmittal &
Record of Proceedings**

MEETING DATE: July 21, 2020	TYPE OF AGENDA ITEM: <input checked="" type="checkbox"/> Regular <input type="checkbox"/> Timed <input type="checkbox"/> Consent
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DEPARTMENT: Public Works and Transportation
APPROVING PARTY: Tim H. Beals, Director
PHONE NUMBER: 530-289-3201

AGENDA ITEM: Resolution adopting findings and authorizing appointment of retired annuitant to a temporary position.

SUPPORTIVE DOCUMENTS ATTACHED: Memo Resolution Agreement Other

BACKGROUND INFORMATION: Due to the difficulty in filling extra help positions for the solid waste transfer stations it is necessary to have an employee in place to substitute at the west county transfer stations. Assistance to maintain existing and projected workload. The retired annuitant qualifies to be hired for this position without endangering CalPers retirement as demonstrated in attached resolution.

FUNDING SOURCE: Solid Waste (041)
GENERAL FUND IMPACT: General Fund Impact
OTHER FUND:
AMOUNT: \$296/week (based on 16 hour week) on as needed basis N/A

ARE ADDITIONAL PERSONNEL REQUIRED?

 Yes, -- --
 No

IS THIS ITEM ALLOCATED IN THE BUDGET? Yes No

IS A BUDGET TRANSFER REQUIRED? Yes No

SPACE BELOW FOR CLERK'S USE

<p>BOARD ACTION:</p> <input type="checkbox"/> Approved <input type="checkbox"/> Approved as amended <input type="checkbox"/> Adopted <input type="checkbox"/> Adopted as amended <input type="checkbox"/> Denied <input type="checkbox"/> Other <input type="checkbox"/> No Action Taken	<input type="checkbox"/> Set public hearing For: _____ <input type="checkbox"/> Direction to: _____ <input type="checkbox"/> Referred to: _____ <input type="checkbox"/> Continued to: _____ <input type="checkbox"/> Authorization given to: _____	Resolution 2020- _____ Agreement 2020- _____ Ordinance _____ Vote: Ayes: Noes: Abstain: Absent: <input type="checkbox"/> By Consensus
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COMMENTS:

CLERK TO THE BOARD

DATE

BOARD OF SUPERVISORS, COUNTY OF SIERRA, STATE OF CALIFORNIA

**RESOLUTION/FINDINGS AUTHORIZING APPOINTMENT OF RETIRED
ANNUITANT TO TEMPORARY POSITION**

RESOLUTION 2020- _____

WHEREAS, the Department of Public Works & Transportation is in need of a temporary employee to do work requiring special skills for a limited duration due to extreme difficulty in recruiting extra help employees; and

WHEREAS, the Department desires to retain the services of a qualified retired annuitant of a limited duration to substitute for solid waste laborers at the western county transfer stations as needed; and,

WHEREAS, the Sierra County Board of Supervisors is aware of and wishes to adhere to regulations promulgated by the California Public Employee Retirement System (CalPERS) regarding the hiring of retired annuitants; and

WHEREAS, the Sierra County Board of Supervisors has adopted Resolution 2012-021 Establishing Policy with regard to temporary employment of CalPERS Retirees; and

WHEREAS, Resolution 2012-021 establishes that the Board of Supervisors must approved the appointment of CalPERS retirees upon appropriate findings.

FINDINGS

Government Code section 7522.56, 21224 provides for the employment of a CalPERS annuitant by a member agency without reinstatement from retirement or the loss or interruption of benefits under the following conditions:

1. The annuitant is a person with special skills in that he worked as a laborer for the Road Department for many years and is familiar with the solid waste system and how it functions.
2. The annuitant will work for limited duration.
3. The annuitant has been retired from employment for a minimum of 180 days.
4. The annuitant shall not be employed in excess of 960 hours in a fiscal year and is not paid less than or in excess of existing pay levels for the position filled.
5. The Sierra County Board of Supervisors finds that the proposed appointee, David O'Donnell, satisfies the requirements and limitations of Government Code section 21224(a).

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Supervisors appoints

David O'Donnell to the position of Laborer, Step A for Solid Waste, for a period not to exceed 960 hours and beginning immediately upon approval of Department Manager and Personnel Director.

BE IT FURTHER RESOLVED that the Board of Supervisors intends the position to comply with all the CalPERS requirements for employing a CalPERS retired annuitant as stated above.

ADOPTED by the Board of Supervisors of the County of Sierra, State of California on the 21st day of July, 2020 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

COUNTY OF SIERRA

JAMES BEARD, CHAIRMAN
BOARD OF SUPERVISORS

ATTEST:

APPROVED AS TO FORM:

HEATHER FOSTER
CLERK OF THE BOARD

DAVID PRENTICE
COUNTY COUNSEL

California Government Code

7522.56.

(a) This section shall apply to any person who is receiving a pension benefit from a public retirement system and shall supersede any other provision in conflict with this section.

(b) A retired person shall not serve, be employed by, or be employed through a contract directly by, a public employer in the same public retirement system from which the retiree receives the benefit without reinstatement from retirement, except as permitted by this section.

(c) A person who retires from a public employer may serve without reinstatement from retirement or loss or interruption of benefits provided by the retirement system upon appointment by the appointing power of a public employer either during an emergency to prevent stoppage of public business or because the retired person has skills needed to perform work of limited duration.

(d) Appointments of the person authorized under this section shall not exceed a total for all employers in that public retirement system of 960 hours or other equivalent limit, in a calendar or fiscal year, depending on the administrator of the system. The rate of pay for the employment shall not be less than the minimum, nor exceed the maximum, paid by the employer to other employees performing comparable duties, divided by 173.333 to equal an hourly rate. A retired person whose employment without reinstatement is authorized by this section shall acquire no service credit or retirement rights under this section with respect to the employment unless he or she reinstates from retirement.

(e) (1) Notwithstanding subdivision (c), any retired person shall not be eligible to serve or be employed by a public employer if, during the 12-month period prior to an appointment described in this section, the retired person received any unemployment insurance compensation arising out of prior employment subject to this section with a public employer. A retiree shall certify in writing to the employer upon accepting an offer of employment that he or she is in compliance with this requirement.

(2) A retired person who accepts an appointment after receiving unemployment insurance compensation as described in this subdivision shall terminate that employment on the last day of the current pay period and shall not be eligible for reappointment subject to this section for a period of 12 months following the last day of employment.

(f) A retired person shall not be eligible to be employed pursuant to this section for a period of 180 days following the date of retirement unless he or she meets one of the following conditions:

(1) The employer certifies the nature of the employment and that the appointment is necessary to fill a critically needed position before 180 days have passed and the appointment has been approved by the governing body of the employer in a public meeting. The appointment may not be placed on a consent calendar.

(2) (A) Except as otherwise provided in this paragraph, for state employees, the state employer certifies the nature of the employment and that the appointment is necessary to fill a critically needed state employment position before 180 days have passed and the appointment has been approved by the Department of Human

Resources. The department may establish a process to delegate appointing authority to individual state agencies, but shall audit the process to determine if abuses of the system occur. If necessary, the department may assume an agency's appointing authority for retired workers and may charge the department an appropriate amount for administering that authority.

(B) For legislative employees, the Senate Committee on Rules or the Assembly Rules Committee certifies the nature of the employment and that the appointment is necessary to fill a critically needed position before 180 days have passed and approves the appointment in a public meeting. The appointment may not be placed on a consent calendar.

(C) For employees of the California State University, the Trustees of the California State University certifies the nature of the employment and that the appointment is necessary to fill a critically needed position before 180 days have passed and approves the appointment in a public meeting. The appointment may not be placed on a consent calendar.

(3) The retiree is eligible to participate in the Faculty Early Retirement Program pursuant to a collective bargaining agreement with the California State University that existed prior to January 1, 2013, or has been included in subsequent agreements.

(4) The retiree is a public safety officer or firefighter hired to perform a function or functions regularly performed by a public safety officer or firefighter.

(g) A retired person who accepted a retirement incentive upon retirement shall not be eligible to be employed pursuant to this section for a period of 180 days following the date of retirement and subdivision (f) shall not apply.

(h) This section shall not apply to a person who is retired from the State Teachers' Retirement System, and who is subject to Section 24214, 24214.5, or 26812 of the Education Code.

(i) This section shall not apply to (1) a subordinate judicial officer whose position, upon retirement, is converted to a judgeship pursuant to Section 69615, and he or she returns to work in the converted position, and the employer is a trial court, or (2) a retiree of the Judges' Retirement System or the Judges' Retirement System II who is assigned to serve in a court pursuant to Section 68543.5.

(Amended by Stats. 2014, Ch. 238, Sec. 1. (AB 2476) Effective January 1, 2015.)

21224.

(a) A retired person may serve without reinstatement from retirement or loss or interruption of benefits provided by this system upon appointment by the appointing power of a state agency or public agency employer either during an emergency to prevent stoppage of public business or because the retired person has specialized skills needed in performing work of limited duration. These appointments shall not exceed a combined total of 960 hours for all employers each fiscal year. The compensation for the appointment shall not exceed the maximum monthly base salary paid to other employees performing comparable duties as listed on a publicly available pay schedule divided by 173.333 to equal an hourly rate. A retired person appointed pursuant to this section shall not receive any benefit, incentive, compensation in lieu of benefits, or other form of compensation

in addition to the hourly pay rate. A retired annuitant appointed pursuant to this section shall not work more than 960 hours each fiscal year regardless of whether he or she works for one or more employers.

(b) (1) This section shall not apply to any retired person otherwise eligible if during the 12-month period prior to an appointment described in this section the retired person received any unemployment insurance compensation arising out of prior employment subject to this section with the same employer.

(2) A retired person who accepts an appointment after receiving unemployment insurance compensation as described in this subdivision shall terminate that employment on the last day of the current pay period and shall not be eligible for reappointment subject to this section for a period of 12 months following the last day of employment. The retired person shall not be subject to Section 21202 or subdivision (b) of Section 21220.

(Amended by Stats. 2012, Ch. 41, Sec. 14. (SB 1021) Effective June 27, 2012.)