



Superior Court of California, County of San Joaquin

180 E. Weber Avenue, Ste 1306J

Stockton, CA 95202

Telephone: (209) 992-5695

NOTICE OF PUBLIC HEARING

February 18, 2020

12:15 p.m.

San Joaquin Superior Court
180 E. Weber Avenue, Department 9A

REQUEST TO GRANT CRITICALLY NEEDED EXCEPTION TO 180-DAY "SIT-OUT" RULE PURSUANT TO PEPRA FOR THE POSITION OF COURT EXECUTIVE OFFICER

The Public Employee Pension Reform Act of 2013, also known as PEPRA, requires public agency retirees to wait 180 days after retirement before returning to work for a public agency. This waiting period can be waived should the Superior Court Executive Committee determine it is critical to fill a specific need. Two critical vacancies are occurring during a time the court lacks the resources to swiftly recruit, select, train and replace the incumbents in the positions of Court Executive Officer and Assistant Court Executive Officer (CEO). Therefore, the Presiding Judge seeks to waive the 180-day waiting period and gain authorization to re-hire the CEO for approximately six weeks following the planned retirements. A request to grant this exception will be heard at this meeting on February 18, 2020 at 12:15 p.m. at the location indicated above.

Requests to be heard on the subject and written comments may be submitted to:

Adrienne Forshay
Assistant Court Executive Officer
180 E. Weber Avenue, Suite 1306E
Stockton, CA 95202

Materials may be found on the Court's website at www.sjcourts.org



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February 4, 2020

TO: Executive Committee

FROM: Adrienne Forshay, Assistant Court Executive Officer 

RE: Request to Grant Critically Needed Exception to 180-Day "Sit-Out" Rule Pursuant to Government Code Section 7522.56

I, Adrienne Forshay, Assistant Court Executive Officer, seek certification from the Court Executive Committee of the Superior Court of California, County of San Joaquin, that the appointment of Rosa Junqueiro, Court Executive Officer, in an extra help capacity is justified due to the critically needed nature of this position as described in Government Code § 7522.56.

ISSUE:

The Court has received notification of the intent to retire from the current Court Executive Officer (CEO), Rosa Junqueiro and the current Assistant Court Executive Officer (ACEO), Adrienne Forshay. Both are set to retire at the end of March 2020 and both positions are critically important positions to the court. With the two top leadership positions within the court retiring at the same time, the court will require at a minimum, a transition period between the new CEO and the current CEO, Rosa Junqueiro. There is currently a recruitment for the CEO position which is scheduled to close on Sunday, February 9, 2020. The ACEO recruitment will begin immediately upon the new CEO's hiring. It is fitting that the new CEO be involved with the selection and hiring of their ACEO as the two work very closely together in leading and managing the entire Superior Court. A finding by the Executive Committee that the CEO position is a critically-needed position will waive the "180-day sit-out" period and allow this employee to be hired as "extra-help" immediately following her scheduled retirement.

RULE:

California Public Employee's Pension Reform Act of 2013 (PEPRA) prohibits re-employment of retirees before the expiration of 180 days. An exception can be made under 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 a 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 has 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) 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 has 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.

- (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.
- (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 who takes office as a judge of a court of record pursuant to Article VI of the California Constitution or a retiree of the Judges' Retirement System I or the Judges' Retirement System II who is appointed to serve as a retired judge.

ANALYSIS:

Ms. Junqueiro has been the Court's CEO for the past 16 years, but has worked for the Court for more than 37 years. She has previously held the positions, of Assistant CEO for the Superior Court of San Joaquin County, Clerk/Administrator for the Manteca-Ripon-Escalon-Tracy (MRET) Judicial District, and Deputy Clerk/Administrator for the MRET Western Division (Tracy). Ms. Junqueiro's leadership, expertise and institutional knowledge will be critically needed when the Court transitions to a new CEO, especially that the ACEO position will also be vacant.

Ms. Junqueiro's retirement date is set for March 28, 2020. She has achieved a combination of years of service and age which permit her to retire at this time. The recruitment for the CEO position will close on February 9, 2020. I anticipate we will receive all applications within a few days and will begin the selection process immediately. I believe we should be able to schedule interviews by the end of February. Depending on who the successful candidate is, we may not actually onboard our new CEO until mid to late March. Ms. Junqueiro is willing to return to work immediately after her retirement to assist with the transition of the new CEO and assist in the hiring of the new ACEO. In an organization such as ours, unforeseen challenges are likely to emerge which will require a unique combination of knowledge, expertise and experience; all of which Ms. Junqueiro possesses. The Court may require Ms. Junqueiro's critical services for approximately 30-60 days, but will not exceed the maximum hours permitted under G.C. §7522.56.

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CONCLUSION:

The Executive Committee should find and certify the nature of the employment of Ms. Rosa Junqueiro and that the appointment is necessary to fill a critically needed position before 180 days from her retirement has passed and the appointment has been approved by the Executive Committee and Presiding Judge during a public meeting.



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RESOLUTION WAIVING THE 180 DAY SIT-OUT PERIOD FOR A SUPERIOR COURT RETIREE TO PERFORM THE DUTIES OF COURT EXECUTIVE OFFICER

WHEREAS, the State Legislature has adopted AB 340 in order to implement comprehensive pension reform through the enactment of the California Employees' Pension Reform Act of 2013 (PEPRA) as well as other statutory changes; and

WHEREAS, PEPRA applies to all public employers that participate in the County Employees Retirement Law of 1937 (and others) on or after January 1, 2013; and

WHEREAS, California Government Code section 7522.56(f), as enacted in PEPRA, requires newly retired persons to sit out for at least 180 days before returning to work for an employer in the same retirement system in which they receive a retirement allowance; and

WHEREAS, an exception can be made if the Superior Court Executive Committee (as the Employer) certifies that the nature of the employment and the appointment is necessary to fill a critically-needed position and the 180 days has not yet passed; and

WHEREAS, Ms. Rosa Junqueiro was employed by the Superior Court for 37 years and for the last 16 years as the Court's Court Executive Officer and will be retiring on March 28, 2020; and

WHEREAS, the Court's current Assistant Court Executive Officer will also be retiring at the end of March 2020; and

WHEREAS, Ms. Junqueiro has acquired a unique combination of knowledge, skills, expertise and experience as Court Executive Officer; and

WHEREAS, Ms. Junqueiro can perform this role without requiring any additional training; and

WHEREAS, it is proposed that Ms. Junqueiro return to work immediately after her retirement at the hourly rate established for the position of CEO; and

WHEREAS, it is requested that the 180-day waiting period be waived to allow Ms. Junqueiro to return to work after her retirement date for approximately 30-60 days; and

NOW, THEREFORE, the Executive Committee of the Superior Court of San Joaquin County HEREBY RESOLVES that:

1. Ms. Rosa Junqueiro, through her specific knowledge, skills, expertise and experience as the Court's Court Executive Officer is uniquely qualified to provide essential and critically needed assistance to the Court.

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2. The Superior Court Executive Committee certifies that the employment of Ms. Rosa Junqueiro is necessary to fill a critically needed position before the 180 day sit-out period required by Government Code section 7522.56 has passed.
3. This Resolution is adopted at a properly noticed public meeting and was not placed on the consent calendar, in compliance with Government Code section 7522.56(f) (1).
4. This Resolution shall be effective immediately upon its adoption.

Signed:

Xapuri B. Villapudua, Presiding Judge
and Chair of the Executive Committee,
Superior Court of San Joaquin County

Date