

MEMORANDUM

TO: Butte Local Agency Formation Commission

FROM: Stephen Lucas, Executive Officer

SUBJECT: **Agenda Item No. 4.3 - CalPERS Post-Retirement Employment Exemption**

DATE: July 26, 2017 for the Meeting of August 3, 2017

The California Public Employees' (PERS) Pension Reform Act of 2013 requires newly retired persons to "sit out" for at least 180 days before returning to work for an employer with the same retirement system from which they receive a retirement allowance AND provides an exemption to this rule with governing body approval in a properly notice public meeting on a regular agenda calendar (Government Code Section 7522.56(f)(1)).

The Butte Local Agency Formation Commission has one Deputy Executive Officer that is responsible for a substantial number of agency compliance functions. The incumbent is scheduled to retire effective August 16, 2017. Although the position is in the process of being filled, there is a critical need to have the retiree available for an interim period until a permanent replacement may be hired and to assist the new hire with critical aspects of the position. Given the unique subject matter expertise, the retiree is the only person capable of meeting this critical short-term need. The Executive Officer has reviewed the fact and concurs that the request is consistent with the exemption outlined in Government Code Section 7522.56(f)(1).

Funding for the interim position will be paid from the permanent salary appropriation for the incumbent which is included in the 2017/18 budget. No additional funding is required at this time

ACTION REQUESTED:

1. Approve PERS Post-Retirement Appointment Exemption pursuant to Section 7522.56 of the Government Code.
2. Adopt Resolution No. 01 2017-18 and authorize the Chair to sign.

**RESOLUTION FOR EXCEPTION TO THE 180-DAY WAIT PERIOD
PER GOVERNMENT CODE SECTIONS 7522.56 & 21221(h)
RETIRED ANNUITANT APPOINTED AS AN INTERIM**

WHEREAS, in compliance with Government Code section 7522.56 the Butte Local Agency Formation Commission must provide CalPERS this certification resolution when hiring a retiree before 180 days has passed since his/her retirement date; and

WHEREAS, Stephen Betts (P70101) will retire from Butte Local Agency Formation Commission in the position of Deputy Executive Officer, effective August 16, 2017; and

WHEREAS, section 7522.56 requires that post-retirement employment commence no earlier than 180 days after the retirement date, which is February 12, 2018 without this certification resolution; and

WHEREAS, section 7522.56 provides that this exemption to the 180 day wait period shall not apply if the retiree accepts any retirement-related incentive; and

WHEREAS, the Butte Local Agency Formation Commission and Stephen Betts certify that Stephen Betts has not and will not receive a Golden Handshake or any other retirement-related incentive; and

WHEREAS, the Butte Local Agency Formation Commission hereby appoints Stephen Betts as an interim appointment retired annuitant to the vacant position of Deputy Executive Officer for the Butte Local Agency Formation Commission under Government Code section 2122(h) effective August 16, 2017 and

WHEREAS, an appointment under Government Code section 2122(h) requires an active, publicly posted recruitment for a permanent replacement; and

WHEREAS, the current status of this recruitment is in progress; and

WHEREAS, this section 2122(h) appointment shall only be made once and therefore will end on August 16, 2018; and

WHEREAS, the entire employment agreement, contract or appointment document between Stephen Betts and the Butte Local Agency Formation Commission has been reviewed by this body and is attached herein; and

WHEREAS, no matters, issues, terms or conditions related to this employment and appointment have been or will be placed on a consent calendar; and

WHEREAS, the employment shall be limited to 960 hours per fiscal year; and

WHEREAS, the compensation paid to retirees cannot be less than the minimum nor exceed the maximum monthly base salary paid to other employees performing comparable duties, divided by 173.333 to equal the hourly rate; and

WHEREAS, the maximum base salary for this position is bi-monthly \$3,693.29 and the hourly equivalent is \$46.1661, and the minimum base salary for the position is \$2,755.99 bi-monthly and the hourly equivalent is \$34.4499 and

WHEREAS, the hourly rate paid to Stephen Betts will be \$46.1661; and

WHEREAS, Stephen Betts has not and will not receive any other benefit, incentive, compensation in lieu of benefit or other form of compensation in addition to this hourly pay rate; and

THEREFORE, BE IT RESOLVED THAT the Butte Local Agency Formation Commission hereby certifies the nature of the appointment of Stephen Betts as described herein and detailed in the attached employment agreement/contract/appointment document and that this appointment is necessary to fill the critically needed position of the Deputy Executive Officer for the Butte Local Agency Formation Commission by September 5, 2018 because the recruitment to find a permanent replacement for the Deputy Executive Officer is in progress and the responsibilities of this position cannot go unattended.

PASSED AND ADOPTED this 3rd day of August, 2017, by the following votes:

AYES:

NOES:

ABSENT:

NOT VOTING:

CARL LEVERENZ, Chair
Butte Local Agency Formation Commission

ATTEST:

Executive Officer and
Clerk of the Local Agency Formation Commission

By: _____
Deputy