



BOARD OF RETIREMENT

Staff Report

File #: 19-522

Agenda Date: 9/5/2019

Agenda #: 16.

FROM: Colin Bishop, Chief of Member Services

SUBJECT: Returning Retiree Certification: Timothy O'Connell

RECOMMENDATION:

Approve the request to extend employment of Timothy O'Connell from August 30, 2019 to February 28, 2021 because an extreme necessity exists to continue the retiree's employment beyond the 18-month limit, and thus the standards of SBCERA Board Administration Policy No. 015: "Retirees Returning to Work," have been met.

BACKGROUND:

Mr. O'Connell retired on October 31, 2015 and was re-employed as Paid Call Firefighter (PCF) for the County of San Bernardino at Station 99 in Forest Falls since retiring.

In August 2017, the Fire Department filed for an extension for Mr. O'Connell to continue working until August 29, 2019, and SBCERA staff granted the extension, consistent with the existing policy. In April 2018, the Board approved the updated version 2.0 of Policy No. 015, which changed some of the processes for reviewing and permitting extensions for retirees returning to work, notably adding a provision for Board approval where the period of employment was either not specified or greater than 18 months.

The department is now requesting Mr. O'Connell continue employment as a PCF for an additional 18 months. All County Fire PCF's are volunteers who must meet requirements that are much the same of that of a fulltime career firefighter. They are paid minimum wage for all training hours and calls they respond to.

Over the past four years, Mr. O'Connell has worked an average of 208 hours per fiscal year and responded to an average of five fire-related calls per year. Station 99 averages approximately 270 service calls per year. Mr. O'Connell is a certified Firefighter 2, licensed Emergency Medical Technician (EMT), holds numerous certifications including Dynamic Rescue and Chief Officer, and holds a Class "A" Driver's License allowing him to drive certain fire equipment.

As a PCF, Mr. O'Connell also provides critical response for emergencies in the Forest Falls area until a full time paid professional fire paramedic engine company or squad can get there. The Battalion Chief indicated the closest County Fire Paramedic Unit is approximately 13-15 minutes away and sometimes even longer.

The County has an open recruitment ongoing for PCFs, but due to the specialized skills that are much the same as a fulltime career firefighter, recruitment has been difficult. The County is looking at other options, but has budget restrictions. The extension request would expire February 28, 2021,

and ensure the department continues to meet its Public safety obligations.

The Fire Department contends there is an extreme necessity to continue the retiree's employment beyond the 18-month limit.

Pursuant to Government Code section 7522.56, 317680.6, and 31680.7 and SBCERA Administration Policy No. 015, upon receiving and reviewing the participating employer and retiree's justification to extend the retiree's employment beyond the 18-month limit for presumed compliance with the statutory "limited duration" standard, the Board must, based on the facts and evidence presented:

1. Find one of the following:
 - a. That extreme necessity exists to continue the retiree's employment beyond the 18-month limit; or
 - b. In the alternative, that the extension of employment is unavoidable and circumstances exist that could not have been anticipated; or
 - c. That there is neither an extreme necessity, nor circumstances that are unavoidable or could not have been anticipated, and thus that the standards of Policy No. 015 are not met.
2. Based on the finding above in part (1) above, the Board:
 - a. Approves the request for extension of employment of retiree beyond the 18-month limit. Extension of the employment commences on the date indicated on this certification and will terminate on February 28, 2021; or
 - b. Denies the request of extension of employment of retiree beyond the 18-month limit. In a case of any violation of the law as implemented through Policy No. 015, including continued employment beyond the 18-month limit or without prior approval, the Board directs staff to suspend the retiree's retirement benefit and reinstate the retiree to active service. Additionally, staff is directed to commence collection of any retirement benefits received during any unlawful re-employment, as well as contributions from employer and employee.

BUDGET IMPACT:

None.

STRATEGIC PLANNING GOAL/OBJECTIVE:

Operational Excellence & Efficiency

STAFF CONTACT:

Kathleen Crook

ATTACHMENTS:

Exhibit A: Board Summary Worksheet

Exhibit B: Certification Forms, Emails and supporting documentation