



BOARD OF RETIREMENT

Staff Report

File #: 21-112

Agenda Date: 11/4/2021

Agenda #: 12.

FROM: Colin Bishop, Chief of Member Services

SUBJECT: Returning Retiree Certification: James Ells

RECOMMENDATION:

Approve the request to extend re-employment of James Ells from November 5, 2021 thru November 4, 2022, because an extreme necessity exists to continue the retiree's employment beyond the 18-Month limit, and thus the standards of SBCERA Board Benefits Policy No. 032: "Retirees Returning to Work," have been met.

BACKGROUND:

Mr. Ells retired on March 16, 2019 as a Sheriff's Detective/Corporal from the San Bernardino County Sheriff's Department and has been re-employed as Safety Extra Help since March 14, 2020.

Mr. Ells' initial post-retirement employment began after the implementation of the California Public Employees' Pension Reform Act of 2013 (PEPRA), which placed additional restrictions on retirees returning to work. In April 2018, the Board approved an updated version of its policy on "Retirees Returning to Work," which changed some of the processes for reviewing and permitting extensions for the re-employment of retirees, notably adding a provision for Board approval when the period of employment was either not specified or greater than 18 months.

Mr. Ells' original re-employment period was authorized to begin on December 7, 2019 and was scheduled to end on June 7, 2021. Per a memorandum received from the Emergency Operations Division dated May 19, 2021, there was a delay in getting this information entered into EMACS and as a result, the effective date was entered as March 14, 2020. The Division requested that the re-employment dates be modified to begin on March 14, 2020 and scheduled to end on September 14, 2021. SBCERA staff approved the modification, because the updated dates did not exceed the 18 months originally requested. Per a memorandum from the Emergency Operations Division dated August 25, 2021, the Division is requesting an additional 12-month extension for Mr. Ells to serve as a part-time extra help automotive officer in order for the Division and the Department to continue to meet its public safety obligation.

Exhibit C provides additional background from the San Bernardino Emergency Operations Division regarding Mr. Ells' specialized knowledge, and the critical nature of his re-employment. Mr. Ells' prior Returning Retiree Certification is attached as Exhibit D. In summary, the employer has indicated re-employment is necessary in order for the Division and the Department to continue to meet its public safety obligation.

Pursuant to Government Code section 7522.56, 317680.6, and 31680.7, 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. 032 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 November 4, 2022; or
- b. Denies the request for extension of employment of retiree beyond the 18-month limit. In a case of any violation of the law as implemented through Policy No. 032, 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.

As noted above, staff recommends that the Board approve this request for the extension of employment of Mr. Ells.

BUDGET IMPACT:

None.

STRATEGIC PLANNING GOAL/OBJECTIVE:

Operational Excellence & Efficiency

STAFF CONTACT:

Colin Bishop
Kathleen Crook

ATTACHMENTS:

Exhibit A: Board Summary Worksheet
Exhibit B: Certification Form
Exhibit C: Department Memo
Exhibit D: Prior Certification Forms