



**COMMISSIONERS COURT
COMMUNICATION**

AGENDA DATE : 6/17/13

CONSENT OR REGULAR: ---

CONTRACT REFERENCE NO
(IF APPLICABLE): NONE

SUBJECT:

Approve the rehire of County retiree, Howard Capshaw, effective 5/28/13, as required by the Texas County & District Retirement System and County policy regarding rehiring of retirees.

BACKGROUND/DISCUSSION OF TOPIC:

This requirement comes as a result of House Bill (HB 633) that was enacted by the 79th Texas State Legislature and became effective January 1, 2006. The County also took action to include the requirement in its policies in June 2008 to make the rules regarding rehiring retirees known to our County officials and staff to insure our hiring practices are in compliance with the law.

Section 842.110 of the Government Code allows for a person who has retired from the County with a service retirement annuity based on a bona fide termination of employment to return to employment with the County without suffering a suspension of their annuity. It sets out the requirements the County and the retiree must follow in order for this to occur. The retiree must have retired through TCDRS and had a full calendar month break in service from the County. There cannot be any previous agreement or promises with the employee that they are going to be rehired prior to the employee's retirement or rehire. The hiring process must be open, competitive, and fair and the retiree cannot receive any preferential status in the hiring process. Affidavits must be completed by the retiree and the department head or elected official wishing to hire the retiree affirming the process has been followed. The request to hire a retiree must show that there was no preferential status given to the retiree and be approved by the Commissioners' Court.

The required affidavits are attached and by her affidavit, Judge Yahara Gutierrez has stated that this hire and the process meet the requirements. It is requested that Commissioners Court approve the hire to finalize the process.

FISCAL IMPACT:

None

PRIOR COMMISSIONERS COURT ACTION (IF ANY):

None

RECOMMENDATION:

Approve the rehire of County retiree, Howard Capshaw, effective 5/28/13 as a temp Bailiff under the 65th District Court as required by the Texas County & District Retirement System and County policy regarding rehiring of retirees.

COUNTY ATTORNEY APPROVAL

The attached document has been given legal review by the El Paso County Attorney's Office on behalf of the County of El Paso, its officers, and employees. Said legal review should not be relied upon by any person or entity other than the County of El Paso, its officers, and employees.

COUNTY ATTORNEY:

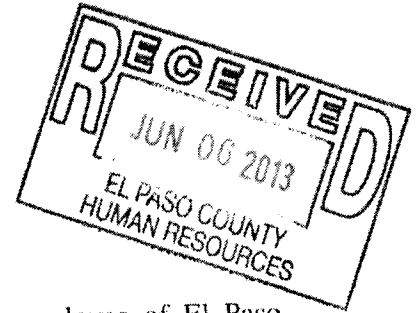
LEGAL REVIEW:

LEGAL REVIEW NOTES (If Applicable):

DATE:

SUBMITTED BY:

Martha A. Banales, Office Manager, Council of Judges Administration, (915) 546-2143.



RETIREE REHIRE AFFIDAVIT

I solemnly affirm that no agreement or arrangement to hire me as an employee of El Paso County was discussed with anyone associated with El Paso County prior to my rehire.

I further solemnly affirm that a full calendar month has expired from the time of my bona fide retirement until the date of my rehire.

[Signature]
Signature

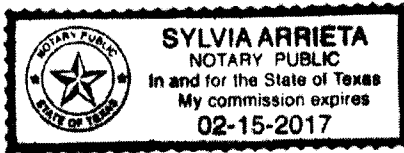
Howard Capshaw
Printed Name

65th District Court
Department

State of Texas
County of El Paso

This instrument was sworn to and subscribed before me on the 6th

day of June, 2013.



[Signature]
Signature of Notary Public

Sylvia Arrieta
Typed or Printed Name

02/15/17
Notary Commission Expires

El Paso County, Texas (REV.06/08)



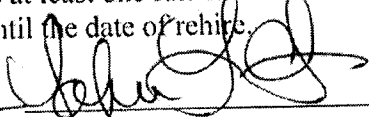
OFFICIAL / DEPARTMENT HEAD
RETIREE REHIRE AFFIDAVIT

I solemnly affirm under the penalties of perjury that:

1) I did not, nor am I aware of any other El Paso County official or employee who did, discuss any agreement or arrangement, or made any commitments or promises to rehire Howard Capshaw (the "Retiree") after his/her retirement from El Paso County;

2) the vacant position which the Retiree will fill has been open to fair competition, other candidates were considered, and that the Retiree has been deemed the most qualified candidate; and

3) at least one full calendar month has expired from the time of the Retiree's bona fide retirement until the date of rehire.



Signature
Yakara Lisa Gutierrez
Printed Name

65th District Court
Department

State of Texas
County of El Paso

This instrument was sworn to and subscribed before me on the 6th day of June, 2013.

Maria E. Escobedo
Signature of Notary Public
Maria E. Escobedo
Typed or Printed Name
05-26-2017
Notary Commission Expires

