

RESOLUTION NO. 15-8041

**RESOLUTION ESTABLISHING PROCEDURE FOR INDUSTRIAL DISABILITY
RETIREMENT DETERMINATIONS OF LOCAL SAFETY OFFICER EMPLOYEES OF
THE PUBLIC EMPLOYEE RETIREMENT SYSTEM**

WHEREAS, the County of Plumas is establishing procedures for Industrial Disability Retirement determinations of Local Safety Officer Employees of the Public Employees Retirement System.

BE IT HEREBY RESOLVED by the Board of Supervisors of the County of Plumas that following the filing of an application for Industrial Disability Retirement by a local safety officer under the California Employees Retirement System, the following procedures shall be employed:

1. An initial determination shall be made by the County of Plumas upon receipt of written argument, medical reports, medical records and further available evidence offered by either the Applicant or the County to determine whether the Applicant is incapacitated from the performance of his or her job duties and whether said incapacity is the direct result of an industrial injury arising out of and occurring in the course and scope of his or her employment. The determination shall be made within six months of the date of the receipt by the County from Cal PERS unless this time requirement is waived in writing by the Applicant. The determination shall be made by the County Administrative Officer. In the event the County does not have a County Administrative Officer the determination will fall to the County Risk Manager. In the event there is not a County Administrative Officer or County Risk Manager the determination will fall to the County Human Resources Director.
 - A. If it is determined by the County that the Applicant is incapacitated, and the incapacity is the direct result of industrial injury occurring in the course and scope of his or her employment, the County Administrative Officer or County Risk Manager will so certify to Cal PERS.
 - B. If it is determined that the Applicant is incapacitated, but that the cause of the incapacity is non-industrial, the County Administrative Officer or the County Risk Manager, will so certify to Cal PERS.
 - C. If it is determined that the Applicant is incapacitated, and Applicant contends that the cause of the incapacity is the direct result of an industrial injury occurring within the course and scope of his or her employment, either Applicant or the County may petition the Workers' Compensation Appeals Board (WCAB) for a Finding of Fact to determine causation. If the Workers' Compensation Appeals Board (WCAB) determines that the cause of the incapacity is the direct result of

an industrial injury occurring during the course and scope of his or her employment, or non-industrial, the County will so certify to Cal PERS.

- D. If the County determines that the Applicant is not incapacitated from the performance of his or her job duties, the County shall notify the Applicant and Cal PERS of this determination. The County shall notify the Applicant by certified mail (return receipt requested) or by personal service, of his or her right to appeal their decision and request a hearing within thirty days of receipt of the notice.
2. If the Applicant requests a Hearing, the Hearing shall be held in conformity with the Administrative Procedure Act. When the Applicant requests a Hearing, the County shall notify Cal PERS. The County will also notify the Office of Administrative Hearings and request a Pre-Hearing Conference with an Administrative Law Judge and a hearing date. The applicant will be informed that the hearing date will be held at the time and place designated by the Office of Administrative Hearings which shall set a Pre-Hearing Conference Date and a Hearing Date.

The Hearing shall be conducted before the County of Plumas Board of Supervisors, with an Administrative Law Judge acting as the presiding officer.

An administrative record shall be generated at the Hearing pursuant to the Administrative Procedures Act. All testimony shall be recorded by a Certified Shorthand Reporter.

Following the Hearing a Decision and Findings of Fact shall be made by the Board of Supervisors. The Decision and Findings of Fact shall be served on the Applicant by Certified Mail (return receipt requested) or by personal service. Applicant shall also be advised of his or her appeal rights as follows:

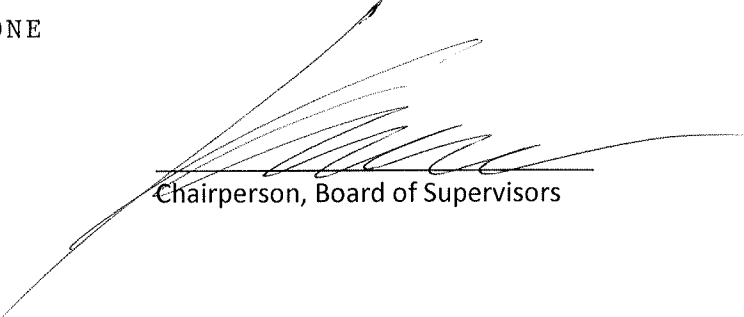
1. On the issue of incapacity, Applicant shall also be informed of his or her right to file a Petition for Writ of Mandate pursuant to Code of Civil Procedure §1094.6.
2. On the issue of industrial causation, where there has been no prior final determination by the Workers' Compensation Appeals Board, Applicant may file a Petition for Findings of Fact pursuant to the provisions of Government code §21166 with the Workers' Compensation Appeals Board within the time limits prescribed in Code of Civil Procedure §1094.6.

The foregoing Resolution is duly passed and adopted by the Board of Supervisors of the County of Plumas, State of California, at a regular meeting of said Board held on the 3rd day of March 2015, by the following vote:

AYES: Supervisors THRALL, ENGEL, SIMPSON, SWOFFORD, GOSS


NOES: Supervisors NONE

ABSENT: Supervisors NONE



Chairperson, Board of Supervisors

ATTEST:



Executive Clerk/Board of Supervisors