



To: [REDACTED], Director of Human Resources

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CC: [REDACTED], Washoe County Manager  
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[REDACTED], Chief Information Officer  
[REDACTED], Chief Financial Officer  
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Date: October 16, 2023

Subject: Fraud Tip Received by Internal Audit – Altered Timecard for an Intermittent/RETA Employee

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#### **Summary of Complaint Reported and Follow-Up**

On July 6, 2023, the Internal Audit Division received information that a timecard was altered to prevent an intermittent/RETA employee from exceeding the allowable hours and/or pay per Nevada Revised Statute (NRS) 286.520. It was reported an intermittent/RETA employee (“the Employee”) worked thirty-two (32) hours for the week of June 26 – June 30, 2023. The Employee entered their time into Washoe County ESS timekeeping system (“ESS”), which was then approved by their supervisor. The Employee was paid for the time worked for June 26 – June 30, 2023, on July 7, 2023. The hours worked for June 26 – June 30, 2023, brought the Employee’s year-end fiscal income to \$28,037.80.

The department’s Payroll/Personnel Clerk discovered this error and asked how many hours would need to “zeroed out” to bring the Employee back into compliance (less than the NRS thresholds). It was recommended by the department’s supervisor to “zero out” twenty-four (24) hours from ESS to bring the Employee back into compliance with an ending fiscal yearly income of \$27,351.16. The hours were “zeroed out” by the department’s Payroll/Personnel Clerk and reapproved by the Employee’s supervisor. The payment for the thirty-two (32) hours the employee received on July 7, 2023, was reversed, and subsequently deducted from the paycheck on July 21, 2023.

Based on discussions with various employees, it was determined that intermittent/RETA employees work up until the thresholds imposed by the NRS for Washoe County (“the County”) and then switch to a temporary employment agency for the remainder of the fiscal year. As such, the Employee had not been entering time into ESS since February 15, 2023, and was employed by the temporary employment agency. It appears the hours worked during the week of June 26 – June 30, 2023, were entered into ESS by mistake by the Employee. The Employee should have submitted a timecard to and been paid by the temporary employment agency for that week of work. Because the Employee was too close to the threshold imposed by NRS, the Employee should have been rehired as a Washoe County employee on July 1, 2023.

Furthermore, while the Employee was employed with a temporary employment agency, a worker's compensation claim for the Employee was improperly submitted to Washoe County in May 2023. The temporary employment agency should have been the recipient of this claim since the temporary employment agency was the Employee's employer at the time of the incident. This error was not prevented because the Employee was not terminated from the SAP and ESS system after separation from Washoe County employment in February 2023.

### **Nevada Revised Statute Basis**

NRS 286.520 explicitly addresses limitations on Nevada Public Employee Retirement System (PERS) retirees that accept public employment. Specifically, if an eligible retired employee accepts employment or an independent contract with a public employer, the employee's retirement benefit terminates upon the employee's earning an amount equal to one-half of the average salary for participating public employees who are not police officers or firefighters in any fiscal year. *Reference NRS 286.520 (1)(b)*. For fiscal year 2023, that amount equaled \$27,495.50 or 1,039 hours, whichever came first. A retired employee who exceeds the earnings limitation in any fiscal year must have their benefit suspended for the duration of the employment, independent contract, or any subsequent employment during the fiscal year, even if it extends into the next fiscal year. The employee and the employer are responsible for reporting the exceeded event to Nevada PERS. As such, the County requires intermittent/RETA employees employed by the County sign an intermittent hourly employment agreement annually, stating that the employee would work less than 1,039 hours in any fiscal year. Nevada PERS also mails the intermittent/RETA employees a letter stating the dollar amount restriction every fiscal year.

### **Other Notable Details**

The County currently employs approximately 224 intermittent employees. Note not all intermittent employees are intermittent/RETA employees. If an intermittent/RETA employee reaches the limit on hours or pay and the County still needs their services, the intermittent/RETA employee is employed through a temp agency. While employed through a temp agency, the intermittent/RETA employee performs the same duties while employed through Washoe County, but the person is not a Washoe County employee.

### **Recommendations**

The Internal Audit Division recommends the following items be considered and implemented:

- Washoe County District Attorney's Office made a recommendation in two letters dated September 10, 2021. It was recommended that "Additional safeguards could be put in place to avoid these issues in the future. This could be accomplished by requiring PERS retirees that act as intermittent hourly employees or independent contractors to sign an updated agreement that would acknowledge termination of their employment when they reach said caps (Hourly and/or Compensation)." The Internal Audit Division recommends following the guidance provided by the Washoe County District Attorney's Office in 2021 be implemented, especially if the intermittent/RETA employee will be working for a temporary employment agency.

- It is strongly recommended that employees separating from Washoe County employment and being employed by a temporary employment agency after separation are removed or restricted to the needs of their position in SAP and ESS to prevent the employee from exceeding their hours and/or pay per NRS 286.520 or accessing the County's technology systems while not employed by the County. It would also prevent improper payment of workers' compensation claims from being paid.
- In addition to the email reminder sent by the Human Resources – Employee Services Division, an automated email from SAP/ESS is sent to the intermittent employee monthly stating the hours remaining from 1,039-hour requirement. It is recommended that this message is updated to include and remind the employee not to exceed the maximum fiscal annual pay determined by Nevada PERS annually.
- It is recommended to consider only allowing an intermittent/RETA employee to work for Washoe County as a true intermittent employee for the hour/pay limitation. Once that limit is reached, the employee can no longer work for the County in any capacity until the new fiscal year. Advise departments to not encourage employees switch to a temporary employment agency to bypass the Nevada PERS NRS requirements.
- It is recommended that departments revisit the need for intermittent employees during the Budget cycle; determine if the position should be filled by a part-time, or full-time employee, as opposed to intermittent employees.
- It is recommended a reconciliation or cross-reference should be performed between the temporary employment agency accounts payable to hours submitted in ESS. It is imperative payment is made for services provided to the County is received by the employee to avoid labor law violations.
- It is recommended to update the *Intermittent Hourly Agreement* to include the updated Washoe County Code section reference. It currently references section 5.045 of the county code which was repealed December 23, 2022.

### **Conclusion**

Even though this information was received via the Fraud Hotline, the Internal Audit Division cannot conclude that fraud was committed by the Employee or the Supervisor. Additionally, follow-up to the report noted opportunities for improvements with the intent to protect the County from additional liability or fraudulent activity.