



# WASHOE COUNTY

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## STAFF REPORT

BOARD MEETING DATE: May 12, 2015

**DATE:** May 1, 2015  
**TO:** Board of County Commissioners  
**FROM:** Joey Orduna Hastings, Assistant County Manager  
(775) 328-2016, [jhastings@washoecounty.us](mailto:jhastings@washoecounty.us)  
**SUBJECT:** Discussion and possible action to designate three (3) independent contractors part of critical labor shortage retroactive to FY13 to present and make necessary findings pursuant to NRS 286.523. (All Commission Districts)

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### SUMMARY

Discussion and possible action to designate three (3) independent contractors part of critical labor shortage retroactive to FY13 to present and make necessary findings pursuant to NRS 286.523.

### PREVIOUS ACTION

None.

### BACKGROUND

Per NRS 286.523(4), a governing body is authorized to designate a position within the Public Employee Retirement System ("PERS") for which there is a "critical labor shortage." The designation of a critical labor shortage is done by the governing body and enables the County to continue using an independent contractor without subjecting the contractor to certain restrictions related to PERS benefits. To designate a position as one of critical shortage, the governing body need make this designation in an open meeting based upon the following findings, per NRS 286.523(5):

- The history of the rate of turnover for the position;
- The number of openings for the position and the number of qualified candidates for those openings after all other efforts of recruitment have been exhausted;
- The length of time the position has been vacant;
- The difficulty in filling the position due to special circumstances, including special education or experience required for the position; and
- The history and success of the efforts to recruit for the position, including efforts make to recruit outside of this state and other efforts.

AGENDA ITEM # 12

NRS 286523(7) permits the re-designation of the critical labor shortage every two years upon new findings if the position continues to meet the criteria set forth above.

In December 2014, PERS contacted Washoe County regarding four (4) independent contractors and their earnings in FY13 and FY14. The contractors were Charlene Eley, Douglas Nutton, Michael Roth, and Patrick Turner. According to PERS and confirmed by the Comptroller's Office these individuals were being paid using social security numbers and not a Tax ID.

On March 16, 2015, the County provided PERS the following information regarding the four independent contracts:

- Clover Community Counseling – Patrick Gregory Tanner – Vendor #105712: Services for substance abuse and mental health counseling and evaluations paid for by Social Services.
- Charlene Pereida Eley – Vendor #100588: Services for Kids Kottage conducting mental health status assessments of youth who may be suicidal or homicidal paid for by Social Services.
- Michael Roth – Vendor #108346 : Conflict Counsel – Supreme Court ADKT 411 – Conflict Counsel
- Douglas Nutton – Vendor #109979: Conflict Counsel – Supreme Court ADKT 411 – Conflict Counsel

Since that time, PERS has informed the County that nothing further is required regarding Patrick Gregory Tanner. However, PERS has requested designation of the remaining contractors as part of critical labor shortage given the unique services provided.

Attached to this staff report are the required forms and findings pertaining to critical labor shortage for those three (3) independent contractors.

#### **FISCAL IMPACT**

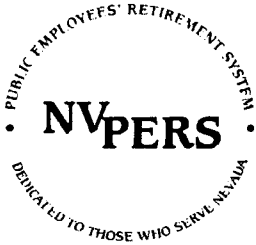
There is no fiscal impact associated with this item.

#### **RECOMMENDATION**

It is recommended that the Board of County Commission action to designate three (3) independent contractors part of critical labor shortage retroactive to FY13 and make necessary findings pursuant to NRS 286.523.

#### **POSSIBLE MOTION**

If the Board of County Commissioners agree with the staff's recommendation, move to action to designate three (3) independent contractors part of critical labor shortage retroactive to FY13 and make necessary findings pursuant to NRS 286.523.



Public Employees Retirement System of Nevada  
693 W. Nye Lane, Carson City, NV 89703 (775) 687-4200 Fax (775) 687-5131  
5820 S. Eastern Ave. Suite 220, Las Vegas, NV 89119 (702) 486-3900 Fax (702) 678-6934  
7455 W. Washington Ave. Suite 150, Las Vegas, NV 89128 (702) 486-3900 Fax (702) 304-0697  
Toll Free 1-866-473-7768 Website www.nvpers.org

## Critical Need Position Designation Form

Reemployment of a retired public employee pursuant to NRS 286.523 is limited to positions of extreme need. An employer who desires to employ a retired public employee to fill a position for which there is a critical labor shortage must make the determination of reemployment based upon appropriate and necessary delivery of services to the public. The critical need designation must be made by the designating authority of the agency in an open meeting. The designated authority shall not designate a position for more than 2 years. To be redesignated, the designating authority must consider and make new findings in an open public meeting as to whether the position continues to meet the criteria established by law. PERS will compile the forms received from each designating authority and provide a biennial report to the Interim Retirement and Benefits Committee (IRBC) of the Legislature.

Agency Contact: Joey Orduna Hastings Agency Phone: (775) 328-2016

Agency Name: Washoe County

Critical Need Position Title: Indigent Criminal Defense Conflict Counsel

Effective Date of Critical Need Designation: 7/1/2013

In an open meeting the designating authority shall make findings based upon the below criteria that supports the designation using this form provided by PERS. Before making a designation, the designating authority shall consider all efforts made by the public employer to fill the position through other means. The written findings to be made by the designating authority must include:

History of the rate of turnover for the position: See Attachment

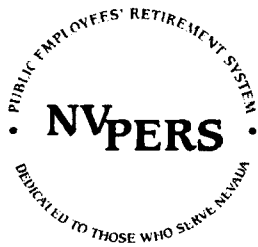
Number of openings for the position and the number of qualified candidates for those openings after all other efforts of recruitment have been exhausted: See Attachment

Length of time the position has been vacant: See Attachment

Difficulty in filling the position due to special circumstances, including special education or experience required for the position: See Attachment

History and success of the efforts to recruit for the position, including advertising, out-of-state recruitment and all other efforts made (include copies of advertising or electronic recruitment notices, specifying targeted geographic areas):  
See Attachment

[Doug Nutton]



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Agency Contact: Joey Orduna Hastings Agency Phone: (775) 328-2016

Agency Name: Washoe County

Critical Need Position Title: Indigent Criminal Defense Counsel

Effective Date of Critical Need Designation: 7/1/2014

In an open meeting the designating authority shall make findings based upon the below criteria that supports the designation using this form provided by PERS. Before making a designation, the designating authority shall consider all efforts made by the public employer to fill the position through other means. The written findings to be made by the designating authority must include:

History of the rate of turnover for the position: See Attachment

Number of openings for the position and the number of qualified candidates for those openings after all other efforts of recruitment have been exhausted: See Attachment

Length of time the position has been vacant: See Attachment

Difficulty in filling the position due to special circumstances, including special education or experience required for the position: See Attachment

History and success of the efforts to recruit for the position, including advertising, out-of-state recruitment and all other efforts made (include copies of advertising or electronic recruitment notices, specifying targeted geographic areas: See Attachment

[Mike Roth]

Washoe County Critical Need Designation Form – Attachment to PERS Form

Designation of Indigent Criminal Defense Conflict Counsel as Critical Need Position:

Findings by the Washoe County Board of County Commissioners:

On January 4, 2006, the Nevada Supreme Court issued an order known as ADKT No. 411. That Order recognized that the United States and Nevada constitutions provide that every individual charged with a serious crime is entitled to competent legal representation. The Washoe County Code authorizes the office of Public Defender and Alternate Public Defender to fulfill this requirement. However, these offices are sometimes precluded from representing individuals because of conflicts of interest. When that happens, there is a statutory scheme that allows conflict counsel to be appointed. See NRS 7.115 *et seq.* In its Order, the Nevada Supreme Court required the selection and payment of “conflict counsel” to be made by administrators of an indigent defense program and not the judges involved in the cases. Pursuant to that Order, Washoe County contracts with attorneys licensed to practice law in the state of Nevada to carry out conflict counsel duties.

History of the rate of turnover for the position: There is an ongoing need for attorneys to act as indigent criminal defense conflict counsel. This position requires the professional services of a Nevada attorney. Washoe County must have a number of Nevada licensed attorneys available to fill the position of independent conflict counsel. There is a shortage of available lawyers to fill this position.

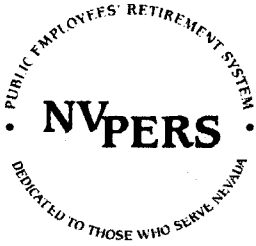
Number of openings for the position and number of qualified candidates:

The number of indigent conflict counsel needed varies depending on how many active criminal cases need conflict counsel assigned. Whether an attorney is qualified for a particular criminal case is determined by the administrator of the indigent criminal defense conflict panel. There is a shortage of available lawyers to fill this position.

Length of time position vacant: By Nevada Supreme Order, this position cannot be vacant. There is an ongoing need for attorneys to act as indigent criminal defense conflict counsel. This position requires the professional services of a Nevada attorney. Washoe County must have a number of attorneys available to act as indigent criminal defense conflict counsel. There is a shortage of available lawyers to fill this position.

Difficulty in filling the position, including special education or experience required for the position: There is an ongoing need for attorneys to act as indigent criminal defense conflict counsel. This position requires the professional services of a Nevada attorney. Washoe County must have a number of Nevada licensed attorneys available to fill the position of independent conflict counsel. There is a shortage of available lawyers to fill this position.

History of success of the efforts to recruit for the position, include all efforts: This position requires an attorney licensed to practice law in the State of Nevada. The attorney also must be an experienced criminal law. The administrator of the indigent criminal defense conflict panel has found word of mouth to be the most effective means of recruitment.



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Agency Contact: Joey Orduna Hastings Agency Phone: (775) 328-2016

Agency Name: Washoe County

Critical Need Position Title: Kids Kottage Mental Health Assessments

Effective Date of Critical Need Designation: 7/1/2013

In an open meeting the designating authority shall make findings based upon the below criteria that supports the designation using this form provided by PERS. Before making a designation, the designating authority shall consider all efforts made by the public employer to fill the position through other means. The written findings to be made by the designating authority must include:

History of the rate of turnover for the position: See Attachment

Number of openings for the position and the number of qualified candidates for those openings after all other efforts of recruitment have been exhausted: See Attachment

Length of time the position has been vacant: See Attachment

Difficulty in filling the position due to special circumstances, including special education or experience required for the position: See Attachment

History and success of the efforts to recruit for the position, including advertising, out-of-state recruitment and all other efforts made (include copies of advertising or electronic recruitment notices, specifying targeted geographic areas):  
See Attachment

[Charlene Eley]

Washoe County Critical Need Designation Form – Attachment to PERS Form

Designation of Kids Kottages Mental Health Assessment Provider as Critical Need Position:

Findings by the Washoe County Board of County Commissioners:

History of the rate of turnover for the position:

The Department of Social Services is required by NRS 432B to provide a mechanism to ensure the hospitalization of children who present as a danger to themselves or others at the Kids Kottages shelter. This position provides mental health assessments after regular business hours to determine whether a child is a dangerous and must be hospitalized. This on call position requires a working relationship with the local private mental health hospital that admits children. Turnover has not been the issue with this position. Instead, there has been a lack of qualified candidates.

Number of openings for the position and number of qualified candidates:

Previous attempts to fill this on call, after hours position have historically not brought forward other potential providers aside from current provider.

Length of time position vacant:

The Department currently does not maintain a funded position to support 24/7 full time acute mental health assessments at the Kids Kottages facility. Efforts to recruit additional providers of this service have been limited due to limited qualified applicants. Additionally, the youth population in need of this service has doubled over the past three years based on State reductions in Medicaid providers. This has resulted in an overall increase in the census at the Kids Kottages.

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**Difficulty in filling the position, including special education or experience required for the position:**

In 2001, state and local child welfare services were integrated. The result was to shift financial responsibility for both short term and long term services to Washoe County. Budget reductions have resulted in the position of acute mental health assessments being contracted. While clinical qualifications are a foundation, it also requires an established relationship with the hospital provider.

**History of success of the efforts to recruit for the position, include all efforts:**

Previous attempts to fill this on call, after hours position have historically not brought forward other potential providers aside from current provider.