

ASSEMBLY BILL NO. 178—COMMITTEE ON JUDICIARY

(ON BEHALF OF INTERIM COMMITTEE ON LIMITATIONS ON
DAMAGES THAT MAY BE AWARDED AGAINST THE
STATE AND ITS POLITICAL SUBDIVISIONS)

FEBRUARY 19, 2001

Referred to Committee on Judiciary

SUMMARY—Provides various changes concerning damages that may be awarded in tort actions against certain governmental entities and their officers or employees. (BDR 3-192)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to tort actions; changing the limitation on damages that may be awarded in tort actions against certain governmental entities and their officers or employees; providing in skeleton form for the creation of a special fund to provide additional compensation to victims of such torts who suffer certain injuries; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Chapter 41 of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2 to 5, inclusive, of this act.
3 **Sec. 2.** *As used in sections 2 to 5, inclusive, of this act, unless the*
4 *context otherwise requires, “board” means the board of trustees of the*
5 *tort claims fund.*
6 **Sec. 3.** *1. The tort claims fund is hereby created in the state*
7 *treasury as a special revenue fund for the purposes described in sections*
8 *2 to 5, inclusive, of this act.*
9 *2. The interest earned on any money in the fund must be deposited*
10 *for credit to the fund. Claims against the fund must be paid on claims*
11 *approved by the board.*
12 **Sec. 4.** *The tort claims fund must be administered by a board of*
13 *trustees composed of five members.*
14 **Sec. 5.** *1. A person or a representative of a person who receives an*
15 *award for damages that is subject to the limitation set forth in NRS*



1 *41.035 may apply to the tort claims fund for an additional payment of up*
2 *to \$250,000 to compensate the person for medical expenses and loss of*
3 *earnings that resulted from the tort if the person was not adequately*
4 *compensated for such medical expenses and earnings and as a result of*
5 *the tort the person:*

- 6 (a) *Has paraplegia;*
7 (b) *Has quadriplegia;*
8 (c) *Remains in a persistent vegetative state;*
9 (d) *Is permanently and totally physically incapacitated from any*
10 *gainful employment; or*
11 (e) *Dies.*

12 *2. A person applying for a payment from the tort claims fund*
13 *pursuant to this section shall submit an application for payment with the*
14 *board.*

15 **Sec. 6.** NRS 41.031 is hereby amended to read as follows:

16 41.031 1. The State of Nevada hereby waives its immunity from
17 liability and action and hereby consents to have its liability determined in
18 accordance with the same rules of law as are applied to civil actions against
19 natural persons and corporations, except as otherwise provided in NRS
20 41.032 to 41.038, inclusive, *and sections 2 to 5, inclusive, of this act,*
21 485.318, subsection 3 and any statute which expressly provides for
22 governmental immunity, if the claimant complies with the limitations of
23 NRS 41.010 or the limitations of NRS 41.032 to 41.036, inclusive ~~†~~, *and*
24 *sections 2 to 5, inclusive, of this act.* The State of Nevada further waives
25 the immunity from liability and action of all political subdivisions of the
26 state, and their liability must be determined in the same manner, except as
27 otherwise provided in NRS 41.032 to 41.038, inclusive, *and sections 2 to*
28 *5, inclusive, of this act,* subsection 3 and any statute which expressly
29 provides for governmental immunity, if the claimant complies with the
30 limitations of NRS 41.032 to 41.036, inclusive ~~†~~, *and sections 2 to 5,*
31 *inclusive, of this act.*

32 2. An action may be brought under this section against the State of
33 Nevada or any political subdivision of the state. In any action against the
34 State of Nevada, the action must be brought in the name of the State of
35 Nevada on relation of the particular department, commission, board or
36 other agency of the state whose actions are the basis for the suit. An action
37 against the State of Nevada must be filed in the county where the cause or
38 some part thereof arose or in Carson City. In an action against the State of
39 Nevada, the summons and a copy of the complaint must be served upon:

- 40 (a) The attorney general, or a person designated by the attorney general,
41 at the office of the attorney general in Carson City; and
42 (b) The person serving in the office of administrative head of the named
43 agency.

44 3. The State of Nevada does not waive its immunity from suit
45 conferred by Amendment XI of the Constitution of the United States.

46 **Sec. 7.** NRS 41.035 is hereby amended to read as follows:

47 41.035 1. An award for damages in an action sounding in tort
48 brought under NRS 41.031 or against a present or former officer or
49 employee of the state or any political subdivision, immune contractor or



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1 state legislator arising out of an act or omission within the scope of his
2 public duties or employment may not exceed the sum of ~~+\$50,000,+~~
3 *\$75,000 for each separate, distinct and independent action, but must not*
4 *exceed the sum of \$150,000 per claimant for all actions relating to the*
5 *same act or omission or series of acts or omissions involved,* exclusive of
6 interest computed from the date of judgment, to or for the benefit of any
7 claimant. An award may not include any amount as exemplary ~~for~~
8 *damages,* punitive damages ~~or~~ *or for prejudgment interest. A claimant*
9 *may not recover the amount set forth in this subsection from each*
10 *separate actor or entity to which the limitation on damages set forth in*
11 *this subsection applies, but may join such actors and entities in each*
12 *action to recover that amount.*

13 2. The limitations of subsection 1 upon the amount and nature of
14 damages which may be awarded apply also to any action sounding in tort
15 and arising from any recreational activity or recreational use of land or
16 water which is brought against:

17 (a) Any public or quasi-municipal corporation organized under the laws
18 of this state.

19 (b) Any person with respect to any land or water leased or otherwise
20 made available by that person to any public agency.

21 (c) Any Indian tribe, band or community whether or not a fee is charged
22 for such activity or use. The provisions of this paragraph do not impair or
23 modify any immunity from liability or action existing on February 26,
24 1968, or arising after February 26, 1968, in favor of any Indian tribe, band
25 or community.

26 The legislature declares that the purpose of this subsection is to effectuate
27 the public policy of the State of Nevada by encouraging the recreational
28 use of land, lakes, reservoirs and other water owned or controlled by any
29 public or quasi-municipal agency or corporation of this state, wherever
30 such land or water may be situated.

31 **Sec. 8.** NRS 428.185 is hereby amended to read as follows:

32 428.185 1. In addition to the taxes levied pursuant to NRS 428.050
33 and 428.285 and any tax levied pursuant to NRS 450.425, the board of
34 county commissioners of each county shall levy an ad valorem tax at a rate
35 which must be calculated by:

36 (a) First multiplying the tax rate of 1.5 cents on each \$100 of assessed
37 valuation by the assessed valuation of all taxable property in this state,
38 including new real property, possessory interests and mobile homes, during
39 the next fiscal year.

40 (b) Then subtracting the amount of unencumbered money in the fund on
41 May 1 of the current fiscal year.

42 (c) Then setting the rate so that the revenue from the tax does not
43 exceed the amount resulting from the calculations made in paragraphs (a)
44 and (b).

45 2. The tax so levied and its proceeds, must be excluded in computing
46 the maximum amount of money which the county is permitted to receive
47 from taxes ad valorem and the highest permissible rate of such taxes.



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1 3. ~~The~~ *Except as otherwise provided in subsection 4, the* proceeds
2 of this tax must be remitted in the manner provided for in NRS 361.745 to
3 the state treasurer for credit to the fund.

4 *4. From the tax levied pursuant to this section, 0.25 cents on each*
5 *\$100 of assessed valuation for which tax was actually collected pursuant*
6 *to this section must be remitted to the state treasurer for credit to the tort*
7 *claims fund established pursuant to section 3 of this act.*

8 **Sec. 9.** NRS 450.425 is hereby amended to read as follows:

9 450.425 1. The board of county commissioners of a county in which
10 a county hospital is established may, upon approval by a majority of the
11 voters voting on the question in an election held throughout the county,
12 levy an ad valorem tax of not more than 2.5 cents on each \$100 of assessed
13 valuation upon all taxable property in the county, to pay the cost of
14 services rendered in the county by the hospital pursuant to subsection 3 of
15 NRS 450.420 ~~+~~ *and contribute to the tort claims fund established*
16 *pursuant to section 3 of this act in the manner set forth in subsection 3.*
17 The approval required by this subsection may be requested at any primary
18 or general election.

19 2. Any tax imposed pursuant to this section is in addition to the taxes
20 imposed pursuant to NRS 428.050, 428.185 and 428.285. The proceeds of
21 any tax levied pursuant to this section are exempt from the limitations
22 imposed by NRS 354.59811, 428.050 and 428.285 and must be excluded in
23 determining the maximum rate of tax authorized by those sections.

24 *3. From the tax levied pursuant to this section, 0.25 cents on each*
25 *\$100 of assessed valuation for which tax was actually collected pursuant*
26 *to this section must be remitted to the state treasurer for credit to the tort*
27 *claims fund established pursuant to section 3 of this act.*

28 **Sec. 10.** The amendatory provisions of this act apply to an action
29 brought on or after October 1, 2001.

