

## ASSEMBLY BILL NO. 435—ASSEMBLYWOMAN OHRENSCHALL

MARCH 19, 2001

Referred to Committee on Judiciary

SUMMARY—Revises provisions pertaining to strategic lawsuits against public participation.  
(BDR 3-248)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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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 civil liability; revising the provisions pertaining to strategic lawsuits against public participation; 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 a  
2 new section to read as follows:

3 *“Act in furtherance of the right of petition or free speech pursuant to*  
4 *the Constitution of the United States or the constitution of the State of*  
5 *Nevada” means:*

6 1. *Any written or oral statement or writing made before a legislative,*  
7 *executive or judicial body, or any other official proceeding authorized by*  
8 *law;*

9 2. *Any written or oral statement or writing made in connection with*  
10 *an issue under consideration or review by a legislative, executive or*  
11 *judicial body, or any other official proceeding authorized by law;*

12 3. *Any written or oral statement or writing made in a place open to*  
13 *the public or a public forum in connection with an issue of public*  
14 *interest; or*

15 4. *Any other conduct in furtherance of the exercise of the*  
16 *constitutional right of petition or the constitutional right of free speech in*  
17 *connection with a public issue or an issue of public interest.*

18 **Sec. 2.** NRS 41.635 is hereby amended to read as follows:

19 41.635 As used in NRS 41.635 to 41.670, inclusive, *and section 1 of*  
20 *this act*, unless the context otherwise requires, the words and terms defined  
21 in NRS ~~41.637 and~~ 41.640 *and section 1 of this act* have the meanings  
22 ascribed to them in those sections.



\* A B 4 3 5 \*

1     **Sec. 3.** NRS 41.650 is hereby amended to read as follows:  
2     41.650 A person who engages in ~~in a good faith communication in~~  
3 ~~furthurance of the right to petition~~ *an act in furtherance of the right of*  
4 *petition or free speech pursuant to the Constitution of the United States*  
5 *or the constitution of the State of Nevada* is immune from civil liability  
6 for claims based upon the ~~communication~~ *act*.

7     **Sec. 4.** NRS 41.660 is hereby amended to read as follows:  
8     41.660 1. If an action is brought against a person based upon ~~in a good~~  
9 ~~faith communication in furtherance of the right to petition~~ *an act in*  
10 *furtherance of the right of petition or free speech pursuant to the*  
11 *Constitution of the United States or the constitution of the State of*  
12 *Nevada*:

13         (a) The person against whom the action is brought may file a special  
14 motion to dismiss; and

15         (b) The attorney general or the chief legal officer or attorney of a  
16 political subdivision of this state may defend or otherwise support the  
17 person against whom the action is brought. If the attorney general or the  
18 chief legal officer or attorney of a political subdivision has a conflict of  
19 interest in, or is otherwise disqualified from, defending or otherwise  
20 supporting the person, the attorney general or the chief legal officer or  
21 attorney of a political subdivision may employ special counsel to defend or  
22 otherwise support the person.

23         2. A special motion to dismiss must be filed within 60 days after  
24 service of the complaint, which period may be extended by the court for  
25 good cause shown.

26         3. If a special motion to dismiss is filed pursuant to subsection 2, the  
27 court shall:

28             (a) Treat the motion as a motion for summary judgment;

29             (b) Stay discovery pending:

30                 (1) A ruling by the court on the motion; and

31                 (2) The disposition of any appeal from the ruling on the motion; and

32             (c) Rule on the motion within 30 days after the motion is filed.

33         4. If the court dismisses the action pursuant to a special motion to  
34 dismiss filed pursuant to subsection 2, the dismissal operates as an  
35 adjudication upon the merits.

36     **Sec. 5.** NRS 41.637 is hereby repealed.

37     **Sec. 6.** The amendatory provisions of this act apply to an action  
38 brought against a person based upon an act in furtherance of the right of  
39 petition or free speech pursuant to the Constitution of the United States or  
40 the constitution of the State of Nevada that is filed on or after October 1,  
41 2001.



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TEXT OF REPEALED SECTION

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**41.637 “Good faith communication in furtherance of the right to petition” defined.** “Good faith communication in furtherance of the right to petition” means any:

1. Communication that is aimed at procuring any governmental or electoral action, result or outcome;
2. Communication of information or a complaint to a legislator, officer or employee of the Federal Government, this state or a political subdivision of this state, regarding a matter reasonably of concern to the respective governmental entity; or
3. Written or oral statement made in direct connection with an issue under consideration by a legislative, executive or judicial body, or any other official proceeding authorized by law, which is truthful or is made without knowledge of its falsehood.

