

ASSEMBLY BILL NO. 575—COMMITTEE ON JUDICIARY

(ON BEHALF OF NEVADA LEAGUE OF CITIES AND MUNICIPALITIES)

MARCH 26, 2001

Referred to Committee on Judiciary

SUMMARY—Requires person filing tort action against certain governmental entities or their officers or employees to file notice of action within certain period of time. (BDR 3-363)

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 actions; requiring a person filing a tort action against certain governmental entities or their officers or employees to file a notice of action within a certain period of time; 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, 3 and 4 of this act.
3 **Sec. 2. 1.** *Except as otherwise provided in this subsection and*
4 *section 3 of this act, a person may not commence an action sounding in*
5 *tort brought under NRS 41.031 or against a present or former officer or*
6 *employee of the state or any political subdivision, immune contractor or*
7 *state legislator arising out of an act or omission within the scope of his*
8 *public duties or employment other than an action for wrongful death in*
9 *which a personal representative is appointed for the decedent, unless he*
10 *has filed a notice of the action in writing in the manner set forth in this*
11 *section within 6 months after the action accrued. If the action is for*
12 *wrongful death and a personal representative is appointed for the*
13 *decedent, the notice of the action must be filed in writing within 6*
14 *months after the personal representative is appointed.*
15 2. *A notice of action set forth in subsection 1 must be filed in the*
16 *county where the cause or some part thereof arose or in Carson City. In*



1 *an action against the State of Nevada, a copy of the notice of action must*
2 *be served upon:*

3 *(a) The attorney general, or a person designated by the attorney*
4 *general, at the office of the attorney general in Carson City; and*

5 *(b) The person serving in the office of administrative head of the*
6 *named agency.*

7 *3. A notice of action filed pursuant to this section must be sworn to*
8 *by the person commencing the action. The notice must include, without*
9 *limitation:*

10 *(a) The name and the post office address of the person who may*
11 *commence the action and the name and post office address of his*
12 *attorney, if any;*

13 *(b) The nature of the action;*

14 *(c) The time when, the place where and the manner in which the act*
15 *or omission that constitutes the basis for the action allegedly occurred;*
16 *and*

17 *(d) The damages and injuries alleged to have been sustained.*

18 *Sec. 3. 1. A court may extend the time set forth in section 2 of this*
19 *act within which a notice of action must be filed, but such extension must*
20 *not result in a period that exceeds any applicable statute of limitations*
21 *for commencing an action.*

22 *2. In determining whether to extend the time for filing a notice of*
23 *action, the court shall consider:*

24 *(a) Whether the person or government, governmental agency or*
25 *political subdivision of a government against whom the action may be*
26 *commenced or its attorney or insurance carrier acquired actual*
27 *knowledge of the essential facts constituting the action within the time set*
28 *forth in section 2 of this act for filing the notice of action or within a*
29 *reasonable time thereafter; and*

30 *(b) All other relevant facts and circumstances, including, without*
31 *limitation, whether:*

32 *(1) The person seeking to file the notice of action is or was an*
33 *infant;*

34 *(2) The person seeking to file the notice of action is or was mentally*
35 *or physically incapacitated;*

36 *(3) The person on whose behalf the notice of action is to be filed*
37 *died before the time within which he was required to file the notice of*
38 *action;*

39 *(4) The person seeking to file the notice of action failed to file the*
40 *notice of action within the time set forth in section 2 of this act because*
41 *of his justifiable reliance upon an admission, representation or statement*
42 *made during settlement negotiations concerning the action;*

43 *(5) The person seeking to file the notice of action made an*
44 *excusable error concerning the identity of the person or government,*



1 *governmental agency or political subdivision of a government against*
2 *whom the action should be asserted; and*

3 *(6) The delay in filing and serving the notice of action will*
4 *substantially prejudice the person or government, governmental agency*
5 *or political subdivision of a government that will be defending the action.*

6 *3. The court shall not deny an extension of time for filing a notice of*
7 *action on the ground that the motion for the extension was made after*
8 *the commencement of the action.*

9 **Sec. 4.** *Upon determining that a notice of action filed pursuant to*
10 *section 2 or 3 of this act contains a mistake, omission, irregularity or*
11 *defect that was made in good faith, other than a mistake concerning the*
12 *time within which such a notice must be filed, a court may:*

13 *1. Order the person who filed the notice of action to correct the*
14 *notice of action; or*

15 *2. Disregard the mistake, omission, irregularity or defect if the court*
16 *determines that the other party was not prejudiced by the mistake,*
17 *omission, irregularity or defect.*

18 **Sec. 5.** NRS 41.031 is hereby amended to read as follows:

19 41.031 1. The State of Nevada hereby waives its immunity from
20 liability and action and hereby consents to have its liability determined in
21 accordance with the same rules of law as are applied to civil actions against
22 natural persons and corporations, except as otherwise provided in
23 *subsection 3*, NRS 41.032 to 41.038, inclusive, *and sections 2, 3 and 4 of*
24 *this act*, and 485.318, ~~subsection 3~~ and any statute which expressly
25 provides for governmental immunity, if the claimant complies with the
26 limitations of NRS 41.010 or the limitations of NRS 41.032 to 41.036,
27 inclusive ~~+~~, *and sections 2, 3 and 4 of this act*. The State of Nevada
28 further waives the immunity from liability and action of all political
29 subdivisions of the state, and their liability must be determined in the same
30 manner, except as otherwise provided in *subsection 3*, NRS 41.032 to
31 41.038, inclusive, *and sections 2, 3 and 4 of this act*, ~~subsection 3~~ and
32 any statute which expressly provides for governmental immunity, if the
33 claimant complies with the limitations of NRS 41.032 to 41.036, inclusive
34 ~~+~~, *and sections 2, 3 and 4 of this act*.

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

43 (a) The attorney general, or a person designated by the attorney general,
44 at the office of the attorney general in Carson City; and

45 (b) The person serving in the office of administrative head of the named
46 agency.

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



- 1 **Sec. 6.** The amendatory provisions of this act apply to an action in
- 2 which the earliest act or omission that constitutes the basis for the action
- 3 occurred on or after July 1, 2001.
- 4 **Sec. 7.** This act becomes effective on July 1, 2001.

