

SENATE BILL NO. 378—SENATORS HARDY AND LEE

MARCH 19, 2007

Referred to Committee on Judiciary

SUMMARY—Limits the liability of certain nonprofit organizations and their agents, employees and volunteers under certain circumstances. (BDR 3-1318)

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; limiting the liability of certain nonprofit organizations and their agents, employees and volunteers under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, nonprofit organizations are subject to liability in civil actions for injuries or damages caused by the negligent or wrongful acts of the organization or its agents or employees acting within the scope of their agency or employment. (NRS 41.480)

This bill provides for a limit of \$100,000 on the amount of damages that may be awarded in certain civil actions against a nonprofit organization which is created for religious, charitable or educational purposes or against its agents, employees or volunteers acting within the scope of their agency, employment or volunteer service. The limitation on the amount of damages applies to civil actions sounding in tort if the tort occurred in the course of any activity carried on to accomplish directly the religious, charitable or educational purposes of the nonprofit organization. However, the limitation on the amount of damages does not apply to torts occurring in the course of an activity primarily commercial in character even if the activity was carried on to obtain revenue to be used for the religious, charitable or educational purposes of the nonprofit organization.

In addition, this bill does not apply to nonprofit organizations which are created for: (1) political, partisan or campaign purposes; (2) purposes relating to public advocacy of legal, social or political issues; or (3) financial, industrial, agricultural, commercial, trade or business purposes.

Finally, this bill does not change existing law which provides immunity from liability for volunteers of charitable organizations under certain circumstances. (NRS 41.485)



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

Section 1. Chapter 41 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, if:

(a) An action sounding in tort is brought against a nonprofit corporation, association or organization which is created for religious, charitable or educational purposes or against any of its agents, employees or volunteers; and

(b) The tort occurred in the course of any activity carried on to accomplish directly the religious, charitable or educational purposes of the nonprofit corporation, association or organization, an award for damages against the nonprofit corporation, association or organization or against any of its agents, employees or volunteers arising out of an act or omission within the scope of their agency, employment or volunteer service may not exceed the sum of \$100,000 to or for the benefit of any claimant. This sum is inclusive of any amount awarded as exemplary or punitive damages, but exclusive of any costs and attorney's fees awarded in the action and any interest computed from the date of judgment.

2. The limitations set forth in subsection 1 do not apply to a tort occurring in the course of an activity primarily commercial in character even if the activity was carried on to obtain revenue to be used for the religious, charitable or educational purposes of the nonprofit corporation, association or organization.

3. The provisions of this section do not impose any liability for civil damages upon a volunteer of a charitable organization who is immune from such liability pursuant to NRS 41.485.

4. As used in this section, "nonprofit corporation, association or organization which is created for religious, charitable or educational purposes" does not include any nonprofit corporation, association or organization which is created to carry out, further or represent the interests of its members for:

(a) Any political, partisan or campaign purposes;

(b) Any purposes relating to public advocacy of legal, social or political issues; or

(c) Any financial, industrial, agricultural, commercial, trade or business purposes.

Sec. 2. NRS 41.480 is hereby amended to read as follows:

41.480 1. ~~[A]~~ *Subject to the limitations set forth in section 1 of this act,* a nonprofit corporation, association or organization formed under the laws of this State is not immune from liability for the injury or damage caused *to* any person, firm or corporation as a result of the negligent or wrongful act of the nonprofit corporation,



1 association or organization ~~H~~ or its agents ~~[, employees or servants]~~
2 *or employees* acting within the scope of their agency or
3 employment.

4 2. No action may be brought against an officer, trustee, director
5 or other possessor of the corporate powers of a nonprofit association
6 or trust formed under the laws of this State based on any act or
7 omission arising from failure in his official capacity to exercise due
8 care regarding the management or operation of the entity unless the
9 act or omission involves intentional misconduct, fraud or a knowing
10 violation of the law.

11 **Sec. 3.** The amendatory provisions of this act apply to a cause
12 of action that accrues on or after July 1, 2007.

13 **Sec. 4.** This act becomes effective on July 1, 2007.

