

Amendment No. 257

Assembly Amendment to Assembly Bill No. 396

(BDR 3-1002)

Proposed by: Assembly Committee on Judiciary**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date
Adopted	☐	Lost	☐ _____	Adopted	☐	Lost	☐ _____
Concurred In	☐	Not	☐ _____	Concurred In	☐	Not	☐ _____
Receded	☐	Not	☐ _____	Receded	☐	Not	☐ _____

EXPLANATION: Matter in (1) ***blue bold italics*** is new language in the original bill; (2) ***green bold italic underlining*** is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) ~~orange double underlining~~ is deleted language in the original bill that is proposed to be retained in this amendment; and (6) ***green bold underlining*** is newly added transitory language.

KEL/BAW



Date: 4/18/2011

A.B. No. 396—Provides immunity from civil liability to local governmental entities that engage in cooperative training exercises under certain circumstances. (BDR 3-1002)



ASSEMBLY BILL NO. 396—ASSEMBLYMEN DIAZ, CONKLIN, KIRKPATRICK, SEGERBLOM; AIZLEY, ATKINSON, BENITEZ-THOMPSON, BROOKS, BUSTAMANTE ADAMS, DALY, DONDERO LOOP, FLORES, FRIERSON, MASTROLUCA, NEAL, OCEGUERA, PIERCE AND SMITH

MARCH 21, 2011

Referred to Committee on Judiciary

SUMMARY—~~[Provides immunity from civil liability to local governmental entities that engage in cooperative training exercises under certain circumstances.]~~ Revises provisions relating to industrial insurance involving certain employees who are injured during certain cooperative governmental activities. (BDR ~~[2-1002]~~ 53-1002)

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; providing immunity from civil liability to local governmental entities that engage in cooperative training exercises under certain circumstances;]~~ industrial insurance; revising provisions involving certain employees who are injured during certain cooperative governmental activities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Section 1 of this bill provides immunity from civil liability to a local governmental entity and its officers, employees and volunteers who engage in a cooperative training exercise with officers, employees and volunteers of another local governmental entity or this State unless (1) the officer, employee or volunteer made a specific promise or representation to a person who relied upon the promise or representation to the person's detriment; or (2) the conduct of the officer, employee or volunteer affirmatively caused the harm.]~~

Section 2.5 of this bill provides that when an employee of a state or local government employer is injured by accident sustained during the course of employment while participating in certain cooperative governmental activities, industrial insurance extends to the government employer of the injured employee and any act or failure to act which creates liability on the part of any of the government employers is deemed to be the act or failure to act of the government employer of the injured employee.

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 new~~
2 ~~section to read as follows:~~

3 ~~1. A local governmental entity is not liable for the negligent acts or~~
4 ~~omissions of its officers, employees or volunteers who are engaged in a~~
5 ~~cooperative training exercise with officers, employees or volunteers of another~~
6 ~~local governmental entity or this State, nor are the individual officers, employees~~
7 ~~or volunteers thereof, unless:~~

8 ~~(a) The officer, employee or volunteer made a specific promise or~~
9 ~~representation to a natural person who relied upon the promise or representation~~
10 ~~to the person's detriment; or~~

11 ~~(b) The conduct of the officer, employee or volunteer affirmatively caused~~
12 ~~the harm.~~

13 ~~2. For the purposes of this section, "local governmental entity" means a~~
14 ~~county, an incorporated city, an unincorporated town, a township, a school~~
15 ~~district or any other public district or agency designed to perform local~~
16 ~~governmental functions.] (Deleted by amendment.)~~

17 **Sec. 2.** ~~[NRS 41.0307 is hereby amended to read as follows:~~

18 ~~41.0307 As used in NRS 41.0305 to 41.039, inclusive [1], and section 1 of~~
19 ~~this act:~~

20 ~~1. "Employee" includes an employee of a:~~

21 ~~(a) Part time or full time board, commission or similar body of the State or a~~
22 ~~political subdivision of the State which is created by law.~~

23 ~~(b) Charter school.~~

24 ~~(c) University school for profoundly gifted pupils described in chapter 392A of~~
25 ~~NRS.~~

26 ~~2. "Employment" includes any services performed by an immune contractor.~~

27 ~~3. "Immune contractor" means any natural person, professional corporation or~~
28 ~~professional association which:~~

29 ~~(a) Is an independent contractor with the State pursuant to NRS 333.700; and~~

30 ~~(b) Contracts to provide medical services for the Department of Corrections.~~

31 ~~As used in this subsection, "professional corporation" and "professional~~
32 ~~association" have the meanings ascribed to them in NRS 89.020.~~

33 ~~4. "Public officer" or "officer" includes:~~

34 ~~(a) A member of a part time or full time board, commission or similar body of~~
35 ~~the State or a political subdivision of the State which is created by law.~~

36 ~~(b) A public defender and any deputy or assistant attorney of a public defender~~
37 ~~or an attorney appointed to defend a person for a limited duration with limited~~
38 ~~jurisdiction.~~

39 ~~(c) A district attorney and any deputy or assistant district attorney or an~~
40 ~~attorney appointed to prosecute a person for a limited duration with limited~~
41 ~~jurisdiction.] (Deleted by amendment.)~~

42 **Sec. 2.5.** NRS 616A.020 is hereby amended to read as follows:

43 616A.020 1. The rights and remedies provided in chapters 616A to 616D,
44 inclusive, of NRS for an employee on account of an injury by accident sustained
45 arising out of and in the course of the employment shall be exclusive, except as
46 otherwise provided in those chapters, of all other rights and remedies of the
47 employee, his or her personal or legal representatives, dependents or next of kin, at
48 common law or otherwise, on account of such injury.

2. The terms, conditions and provisions of chapters 616A to 616D, inclusive, of NRS for the payment of compensation and the amount thereof for injuries sustained or death resulting from such injuries shall be conclusive, compulsory and obligatory upon both employers and employees coming within the provisions of those chapters.

3. The exclusive remedy provided by this section to a principal contractor extends, with respect to any injury by accident sustained by an employee of any contractor in the performance of the contract, to every architect, land surveyor or engineer who performs services for:

- (a) The contractor;
- (b) The owner of the property; or
- (c) Any such beneficially interested persons.

4. The exclusive remedy provided by this section applies to the owner of a construction project who provides industrial insurance coverage for the project by establishing and administering a consolidated insurance program pursuant to NRS 616B.710 to the extent that the program covers the employees of the contractors and subcontractors who are engaged in the construction of the project.

5. When an employee of a state or local government employer is injured by accident sustained during the course of employment while participating in an activity which is carried out cooperatively by the state or local government employer with another state or local government employer, the exclusive remedy provided by this section extends to the state or local government employer of the injured employee and any act or failure to act which creates liability on the part of any of the government employers participating in the activity shall be deemed to be the act or failure to act of the government employer of the injured employee for the purposes of the rights and remedies provided in chapters 616A to 616D, inclusive, of NRS.

6. If an employee receives any compensation or accident benefits under chapters 616A to 616D, inclusive, of NRS, the acceptance of such compensation or benefits shall be in lieu of any other compensation, award or recovery against his or her employer under the laws of any other state or jurisdiction and such employee is barred from commencing any action or proceeding for the enforcement or collection of any benefits or award under the laws of any other state or jurisdiction.

Sec. 3. This act becomes effective on July 1, 2011.