

SENATE BILL NO. 293—SENATOR CEGAVSKE

MARCH 21, 2011

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Makes various changes relating to certain nonprofit organizations. (BDR 3-1011)

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 nonprofit organizations; limiting the liability of nonprofit organizations which provide certain jobs and day training services or which operate certain rehabilitation facilities or workshops; requiring that an organization be approved by the Secretary of State as a bona fide nonprofit organization as a condition of participating in one of those programs; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law authorizes nonprofit organizations to provide certain jobs and day
2 training services or to operate certain rehabilitation facilities or workshops. (NRS
3 435.130-435.310, chapter 615 of NRS) **Section 1** of this bill provides that nonprofit
4 organizations which provide those services or operate those facilities or workshops
5 and which are approved by the Secretary of State as bona fide nonprofit
6 organizations have their liability in tort limited for their participation in those
7 programs. **Section 2** of this bill requires organizations which provide certain jobs
8 and day training services to apply to the Secretary of State annually for approval
9 that the organizations are bona fide nonprofit organizations. **Section 4** of this bill
10 requires organizations which operate certain rehabilitation facilities or workshops
11 to apply to the Secretary of State annually for approval that the organizations are
12 bona fide nonprofit organizations.



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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. An award for damages in an action sounding in tort brought against a nonprofit organization that:

(a) Is a provider of jobs and day training services as defined in NRS 435.176 which is recognized as exempt pursuant to the provisions of 26 U.S.C. § 501(c)(3);

(b) Has been issued a certificate by the Division of Mental Health and Developmental Services of the Department of Health and Human Services pursuant to NRS 435.130 to 435.310, inclusive, and section 2 of this act; and

(c) Has been approved by the Secretary of State as a bona fide nonprofit organization pursuant to section 2 of this act,

↪ or against an employee of the nonprofit organization arising out of an act or omission within the scope of the employee's duties or employment with respect to the jobs and day training services may not exceed the sum of \$100,000, exclusive of interest computed from the date of judgment, to or for the benefit of the claimant. An award may not include any amount as exemplary or punitive damages.

2. An award for damages in an action sounding in tort brought against a nonprofit organization that:

(a) Is operating a rehabilitation facility or workshop established by the Department of Employment, Training and Rehabilitation pursuant to chapter 615 of NRS; and

(b) Has been approved by the Secretary of State as a bona fide nonprofit organization pursuant to section 4 of this act,

↪ or against an employee of the nonprofit organization arising out of an act or omission within the scope of the employee's duties or employment with respect to the facility or workshop may not exceed the sum of \$100,000, exclusive of interest computed from the date of judgment, to or for the benefit of the claimant. An award may not include any amount as exemplary or punitive damages.

Sec. 2. Chapter 435 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Before being issued a certificate pursuant to NRS 435.225 and annually thereafter as a condition of certification, an organization must be approved by the Secretary of State as a bona fide nonprofit organization pursuant to this section. The organization must file an application for approval with the Office



1 of the Secretary of State on a form prescribed by the Secretary of
2 State. The application must:

3 (a) Include a copy of the organization's federal income tax
4 return for the most recent year and such other information as is
5 required by the Secretary of State to make the determination
6 required by subsection 2; and

7 (b) Be accompanied by an application fee established by the
8 Secretary of State which is estimated to cover the cost of making
9 the determination required by subsection 2.

10 2. If the Secretary of State determines that the organization:

11 (a) Operates exclusively for public benefit;

12 (b) Is not owned or controlled by a natural person or a for-
13 profit entity and operated for the benefit of the person or entity;
14 and

15 (c) Is in compliance with the laws of this State concerning
16 nonprofit organizations,

17 the Secretary of State shall approve the applicant as a bona fide
18 nonprofit organization.

19 **Sec. 3.** NRS 435.140 is hereby amended to read as follows:

20 435.140 As used in NRS 435.130 to 435.310, inclusive, **and**
21 **section 2 of this act**, unless the context otherwise requires, the
22 words and terms defined in NRS 435.172, 435.176 and 435.179
23 have the meanings ascribed to them in those sections.

24 **Sec. 4.** Chapter 615 of NRS is hereby amended by adding
25 thereto a new section to read as follows:

26 1. **Before participating in a training or rehabilitative program**
27 **of a rehabilitation facility or workshop established by the**
28 **Department pursuant to this chapter and annually thereafter as a**
29 **condition of participation, an organization must be approved by**
30 **the Secretary of State as a bona fide nonprofit organization**
31 **pursuant to this section. The organization must file an application**
32 **for approval with the Office of the Secretary of State on a form**
33 **prescribed by the Secretary of State. The application must:**

34 (a) Include a copy of the organization's federal income tax
35 return for the most recent year and such other information as is
36 required by the Secretary of State to make the determination
37 required by subsection 2; and

38 (b) Be accompanied by an application fee established by the
39 Secretary of State which is estimated to cover the cost of making
40 the determination required by subsection 2.

41 2. If the Secretary of State determines that the organization:

42 (a) Operates exclusively for public benefit;

43 (b) Is not owned or controlled by a natural person or a for-
44 profit entity and operated for the benefit of the person or entity;
45 and



1 (c) *Is in compliance with the laws of this State concerning*
2 *nonprofit organizations,*
3 ↪ *the Secretary of State shall approve the applicant as a bona fide*
4 *nonprofit organization.*

5 **Sec. 5.** Notwithstanding the provisions of sections 2 and 4 of
6 this act, a nonprofit organization required to be approved by the
7 Secretary of State pursuant to section 2 or 4 of this act as a bona fide
8 nonprofit organization that is participating in a program pursuant to
9 NRS 435.130 to 435.310, inclusive, or chapter 615 of NRS,
10 respectively, may continue to participate in those programs until
11 January 1, 2012. Such a nonprofit organization must be approved by
12 the Secretary of State as a bona fide nonprofit organization on or
13 before January 1, 2012. If such a nonprofit organization is not
14 approved by the Secretary of State pursuant to the appropriate
15 section on or before January 1, 2012, it may not continue to
16 participate in the program after that date.

17 **Sec. 6.** This act becomes effective on July 1, 2011.

