

ASSEMBLY BILL NO. 26-ASSEMBLYMAN OCEGUERA

PREFILED JANUARY 29, 2003

Referred to Committee on Judiciary

SUMMARY—Provides immunity from liability to certain governmental entities and actors for damages caused by equipment or other personal property donated by any of them to volunteer fire department. (BDR 3-768)

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 tort actions; providing immunity from liability to certain governmental entities and actors for damages caused by equipment or other personal property donated by any of them to a volunteer fire department; 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
- 2     thereto a new section to read as follows:
- 3     *No action may be brought under NRS 41.031 or against an*
- 4     *immune contractor or an officer or employee of the State or any of*
- 5     *its agencies or political subdivisions for damages caused by any*
- 6     *equipment or other personal property that was provided by any of*
- 7     *them, in good faith and without charge, to a volunteer fire*
- 8     *department for use by the volunteer fire department in carrying*
- 9     *out its duties.*
- 10    **Sec. 2.** NRS 41.0307 is hereby amended to read as follows:
- 11    41.0307 As used in NRS 41.0305 to 41.039, inclusive ~~§~~, *and*
- 12    *section 1 of this act:*
- 13    1. “Employee” includes an employee of a:



1 (a) Part-time or full-time board, commission or similar body of  
2 the State or a political subdivision of the State which is created by  
3 law.

4 (b) Charter school.

5 2. "Employment" includes any services performed by an  
6 immune contractor.

7 3. "Immune contractor" means any natural person, professional  
8 corporation or professional association which:

9 (a) Is an independent contractor with the State pursuant to  
10 NRS 284.173; and

11 (b) Contracts to provide medical services for the Department of  
12 Corrections.

13 As used in this subsection, "professional corporation" and  
14 "professional association" have the meanings ascribed to them in  
15 NRS 89.020.

16 4. "Public officer" or "officer" includes:

17 (a) A member of a part-time or full-time board, commission or  
18 similar body of the State or a political subdivision of the state which  
19 is created by law.

20 (b) A public defender and any deputy or assistant attorney of a  
21 public defender or an attorney appointed to defend a person for a  
22 limited duration with limited jurisdiction.

23 (c) A district attorney and any deputy or assistant district  
24 attorney or an attorney appointed to prosecute a person for a limited  
25 duration with limited jurisdiction.

26 **Sec. 3.** NRS 41.031 is hereby amended to read as follows:

27 41.031 1. The State of Nevada hereby waives its immunity  
28 from liability and action and hereby consents to have its liability  
29 determined in accordance with the same rules of law as are applied  
30 to civil actions against natural persons and corporations, except as  
31 otherwise provided in NRS 41.032 to 41.038, inclusive, *and section*  
32 *1 of this act*, 485.318, subsection 3 and any statute which expressly  
33 provides for governmental immunity, if the claimant complies with  
34 the limitations of NRS 41.010 or the limitations of NRS 41.032 to  
35 41.036, inclusive. The State of Nevada further waives the immunity  
36 from liability and action of all political subdivisions of the State,  
37 and their liability must be determined in the same manner, except as  
38 otherwise provided in NRS 41.032 to 41.038, inclusive, *and section*  
39 *1 of this act*, subsection 3 and any statute which expressly provides  
40 for governmental immunity, if the claimant complies with the  
41 limitations of NRS 41.032 to 41.036, inclusive.

42 2. An action may be brought under this section against the  
43 State of Nevada or any political subdivision of the State. In any  
44 action against the State of Nevada, the action must be brought in the  
45 name of the State of Nevada on relation of the particular



1 department, commission, board or other agency of the State whose  
2 actions are the basis for the suit. An action against the State of  
3 Nevada must be filed in the county where the cause or some part  
4 thereof arose or in Carson City. In an action against the State of  
5 Nevada, the summons and a copy of the complaint must be served  
6 upon:

7 (a) The Attorney General, or a person designated by the  
8 Attorney General, at the Office of the Attorney General in Carson  
9 City; and

10 (b) The person serving in the office of administrative head of the  
11 named agency.

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

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