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Public Entities

Public Entities, Officers, and Employees; limitation of public defender's liability

N.R.S. §41.0307 (amended).

AB 277 (Committee on Judiciary); STATS 1981, Ch 126

Existing law provides that state officers are generally immune from liability when exercising due care in the execution of a statute or regulation, or when performing a discretionary function.¹ Prior to the enactment of Chapter 126, the definition of officer or employee included members or employees of a state commission or political subdivision, but did not specifically include public defenders.² Chapter 126 now includes public defenders within the definition of public officers for purposes of limited liability.³

1. See *Harrigan v. City of Reno*, 86 Nev. 678, 681, 475 P.2d 94, 95 (1970) (Nevada's discretionary exception is identical to that of the Federal Tort Claims Act, 28 U.S.C. §2680(a) (1976)); N.R.S. §41.032 1, 2; See e.g., *Barton v. United States*, 609 F.2d 977, 979 (10th Cir. 1979) (a decision is discretionary when a government official acts without reliance upon a fixed or ascertainable standard when in the performance of his statutory duty); *Gurley v. Brown*, 65 Nev. 250, 252, 193 P.2d 693, 696 (1948) (discretionary powers are exercised according to a person's own judgment as to what is necessary and proper); *Bruttomesso v. Las Vegas Metropolitan Police*, 95 Nev. 151, 153, 591 P.2d 254, 255 (1979).

2. See STATUTES OF NEVADA 1977, c. 584, §1, at 1536 (amending N.R.S. §41.0307).

3. Compare N.R.S. §41.0307 with STATUTES OF NEVADA 1977, c. 584, §1, at 1536.

Public Entities, Officers, and Employees; Federal Bureau of Investigation reports

N.R.S. Title 19 (amended).

AB 346 (Jeffrey); STATS 1981, Ch 284

Under existing law, state agencies and political subdivisions have the power to regulate and license businesses and professions and their employees in order to promote and protect the safety, health, morals, good order, and general welfare of the state or a community.¹ In exercising

1. See *Crowley v. Christensen*, 137 U.S. 86, 89, 91 (1890); *State v. Rosenthal*, 93 Nev. 36, 42, 43, 559 P.2d 830, 834, 835 (1977); *County of Clark v. City of Los Angeles*, 70 Nev. 219, 221, 265 P.2d 216, 217 (1954); *State ex rel. Grimes v. Board of Comm'rs*, 53 Nev. 364, 373, 1 P.2d 570, 572 (1931); N.R.S. §§463.130 1(b), (c), (d), 463.140 2, 4, 463.170 2(a), (b).

this power, state agencies and political subdivisions may make reasonable investigations of license applicants before granting or denying a license.² This investigatory power includes the authority to request and receive Federal Bureau of Investigation information concerning possible criminal involvement and criminal records.³

Chapter 284 allows state agencies and political subdivisions to request and receive Federal Bureau of Investigation information on the background and personal history of any person (1) applying for a license that it has the power to grant or deny,⁴ (2) seeking employment by the agency or the political subdivision,⁵ or (3) with whom they are entering into a contract for personal services.⁶ Background information and personal histories may also be obtained if a *legitimate need* exists to have accurate personal information about any person for the protection of the agency or the people within its jurisdiction.⁷ As a result, all identification and other records acquired, classified, and preserved by the Attorney General of the United States,⁸ in addition to criminal identification records,⁹ may now be distributed to a requesting agency, so long as the records are used to promote and maintain the security of the State and local governments.¹⁰

2. See *Norman v. City of Las Vegas*, 64 Nev. 38, 51-53, 177 P.2d 437, 448-449 (1947); N.R.S. §§463.140, 463.210.

3. See 64 Nev. at 43-44, 177 P.2d at 445.

4. See N.R.S. §—.

5. See *id.* §—.

6. See *id.*

7. See *id.* §—.

8. See 28 C.F.R. §0.85(b) (1981); 28 U.S.C. §534.

9. See 28 C.F.R. §20.31(b) (1981).

10. See 28 C.F.R. §0.85 (1981); Act of Sept. 6, 1966, Pub. L. No. 89-544, §534, 80 Stat. 616 (1966).

Public Entities, Officers, Employees; notice of hearings—county ordinances

N.R.S. §244.100 (amended).

SB 41 (Getto); STATS 1981, Ch 244

Prior to the enactment of Chapter 244, meetings¹ of county boards of commissioners apparently were required to be conducted in accordance with general statutory provisions regarding meetings of public bodies.² These general statutory provisions require that all meetings of public

1. See N.R.S. §241.015 1 (definition of meeting).

2. See *id.* §241.015 2 (definition of public bodies). See generally *id.* §241.020.