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Torts; Claims Against Local Governments

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Torts

Torts; claims against local governments

NEV. REV. STAT. §41.036 (amended).

AB 9 (Committee on Judiciary); 1983 STAT. Ch 22

According to existing law, and except as otherwise provided,¹ the State of Nevada has waived its immunity and that of its political subdivisions² from liability and action.³ Prior law required that as a condition precedent to bringing a claim against a county, incorporated city or unincorporated town, notice of the claim must be presented to the governing body of the political subdivision within six months from the time the claim became due or payable.⁴ In an apparent attempt to validate constitutionally objectionable notice of claims provisions,⁵ Chapter 22 relaxes the notice requirement for tort claims against local governments.⁶ Under Chapter 22, plaintiffs bringing a cause of action in tort against a county, city, or unincorporated town are no longer required to file the claim within the six month period.⁷ Instead, plaintiffs will be subject to the same requirements governing claims brought against other political subdivisions.⁸ Finally, Chapter 22 makes consistent previously disparate statute of limitations periods regarding tort

1. See NEV. REV. STAT. §§41.031-038 (exceptions to waiver of immunity to suit).

2. *Id.* §41.0305 (definition of political subdivision). Although counties, cities and unincorporated towns are not statutorily defined as political subdivisions, the courts appear to treat them as such. See *Turner v. Staggs*, 89 Nev. 230, 233, 510 P.2d 879, 881 (1973). In an action against a county, the court stated that the immunity from liability and action of the state and all political subdivisions had been legislatively waived. *Id.*

3. NEV. REV. STAT. §41.031; *Turner v. Staggs* 89 Nev. 230, 233, 510 P.2d 879, 881 (1973). Liability is determined under the same rules of law applied in civil actions against natural persons and corporations. *Id.*

4. 1981 Nev. Stat. c. 747, §1, at 1885 (amending NEV. REV. STAT. §41.036(1)); see NEV. REV. STAT. §§244.250 (claims against a county must be presented to the county board of commissioners within six months), 269.085 (claims against an unincorporated town are presented to the county board of commissioners), 268.020 (demands against a city must be presented to the city council within six months).

5. See *Jiminez v. State*, — Nev. —, 644 P.2d 1023, 1024 (1982). The court stated that the decision in *Turner v. Staggs* declaring unconstitutional, on equal protection grounds, a statutory provision requiring plaintiffs injured by governmental tortfeasors to give notice of a claim within six months of the incident as a condition precedent to bringing suit also invalidated the notice of claims provision of NEV. REV. STAT. §41.036. *Id.*

6. Compare NEV. REV. STAT. §41.036(1) (amended by 1983 Nev. Stat. c. 22, §1, at 103) with 1981 Nev. Stat. c. 747, §1, at 1885 (amending NEV. REV. STAT. §41.036(1)).

7. Compare NEV. REV. STAT. §41.036(1) (amended by 1983 Nev. Stat. c. 22, §1, at 103) with 1981 Nev. Stat. c. 747, §1, at 1885 (amending NEV. REV. STAT. §41.036(1)).

8. Compare NEV. REV. STAT. §41.036(1) (amended by 1983 Nev. Stat. c. 22, §1, at 103) with 1981 Nev. Stat. c. 747, §1, at 1885 (amending NEV. REV. STAT. §41.036(1)).

claims⁹ by allowing claims against all political subdivisions to be filed within two years from the time the cause of action accrues.¹⁰

9. Compare 1981 Nev. Stat. c. 747, §1, at 1885 (amending NEV. REV. STAT. §41.036(1)) with NEV. REV. STAT. §11.190(4)(e) (in tort actions against local governments the claim was required to be brought within *six months* while similar actions against private individuals were required to be commenced within *two years*).

10. Compare NEV. REV. STAT. §41.036(1) (amended by 1983 Nev. Stat. c. 22, §1, at 103) with 1981 Nev. Stat. c. 747, §1, at 1885 (amending NEV. REV. STAT. §41.036(1)).

Torts; liability for negligently caused emergencies

NEV. REV. STAT. §474.550 (amended).
AB 552 (Beyer); 1983 STAT. Ch 331

Under existing law, any person¹ who willfully or negligently causes a fire within the boundaries of a fire protection district² is liable for expenses incurred in fighting the fire.³ With the enactment of Chapter 331, liability for these expenses will also be imposed when a person willfully or negligently causes any other life threatening emergency requiring the services of a fire protection district.⁴

1. NEV. REV. STAT. §474.550 (includes persons, firms, associations, and agencies).

2. *Id.* §§41.0305, 473.020, 473.033, 473.034, 473.035. (A fire protection district is a political subdivision created either by petition of property owners, or unilaterally by the Board of County Commissioners for the purpose of dealing with fires. *Id.*)

3. *Id.* §474.550.

4. *Id.* (amended by 1983 Nev. Stat. c. 331, §1, at 808).