
ASSEMBLY BILL NO. 101—ASSEMBLYMAN DALY

PREFILED JANUARY 28, 2019

Referred to Committee on Judiciary

SUMMARY—Authorizes a private plaintiff to bring an action for a declaratory judgment regarding a violation of state law or a local ordinance by certain governmental entities. (BDR 3-26)

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 declaratory judgments; authorizing a private plaintiff to bring an action for a declaratory judgment regarding a violation of state law or a local ordinance by certain governmental entities; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law authorizes a person to seek a declaratory judgment under certain
2 circumstances and provides that any person interested under a deed, written
3 contract or other writings constituting a contract, or whose rights, status or other
4 legal relations are affected by a statute, municipal ordinance, contract or franchise
5 may have determined any question of construction or validity arising under the
6 instrument, statute, ordinance, contract or franchise and obtain a declaration of
7 rights, status or other legal relations thereunder. (Chapter 30 of NRS)
8 This bill authorizes a private plaintiff to bring an action for a declaratory
9 judgment to determine whether the State of Nevada or a political subdivision of the
10 State violated any applicable provision of state law or a local ordinance. However,
11 an action may not be brought or maintained by a private plaintiff: (1) against a
12 member of the Legislature or the Judiciary or an elected officer of the Executive
13 Department of the State Government; or (2) if the action is based upon allegations
14 or transactions that are the subject of a civil action or an administrative proceeding
15 for a monetary penalty to which the State or political subdivision is already a party.
16 If a court issues a declaratory judgment finding that any alleged action of the State
17 or political subdivision violated any applicable provision of state law or a local
18 ordinance, the action taken by the State or political subdivision is null and void.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 30 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 1. *Except as otherwise provided in this section, a private*
4 *plaintiff may, in the private plaintiff's name, bring an action for a*
5 *declaratory judgment to determine whether the State or a political*
6 *subdivision of the State has violated any applicable provision of*
7 *state law or a local ordinance.*

8 2. *If a private plaintiff brings an action pursuant to this*
9 *section, no person other than the Attorney General or a deputy*
10 *attorney general designated by the Attorney General may*
11 *intervene or bring a related action pursuant to this section based*
12 *on the facts underlying the first action.*

13 3. *An action may not be brought or maintained by a private*
14 *plaintiff pursuant to this section:*

15 (a) *Against a member of the Legislature or the Judiciary or an*
16 *elected officer of the Executive Department of the State*
17 *Government.*

18 (b) *If the action is based upon allegations or transactions that*
19 *are the subject of a civil action or an administrative proceeding for*
20 *a monetary penalty to which the State or political subdivision is*
21 *already a party. For the purpose of this paragraph, the State or*
22 *political subdivision must not be considered already to be a party*
23 *to a civil action or an administrative proceeding merely because*
24 *the State or political subdivision is presiding over or adjudicating*
25 *the civil action or administrative proceeding.*

26 4. *On the date the private plaintiff files a complaint, the*
27 *private plaintiff shall send a copy of the complaint to the Attorney*
28 *General by mail with return receipt requested. The private plaintiff*
29 *shall send with each copy of the complaint a written disclosure of*
30 *substantially all material evidence and information that the private*
31 *plaintiff possesses.*

32 5. *An action pursuant to this section may be brought in any*
33 *judicial district in this State in which the defendant can be found,*
34 *resides, transacts business or in which any alleged violation of*
35 *state law or a local ordinance occurred.*

36 6. *If a court issues a declaratory judgment finding that any*
37 *alleged action of the State or political subdivision violated any*
38 *applicable provision of state law or a local ordinance, the action*
39 *taken by the State or political subdivision is null and void.*

40 7. *The right of a private plaintiff to bring an action for a*
41 *declaratory judgment established pursuant to this section is*



1 *cumulative and not exclusive of any other remedy, form or right of*
2 *action or proceeding now allowed by law.*

3 8. *As used in this section:*

4 (a) *“Political subdivision” has the meaning ascribed to it in*
5 *NRS 41.0305.*

6 (b) *“Private plaintiff” means a natural person who is not*
7 *acting on behalf of any public entity.*

8 (c) *“State” means the State of Nevada.*

9 **Sec. 2.** This act becomes effective on July 1, 2019.

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