

SENATE BILL NO. 194—SENATOR HARDY

FEBRUARY 24, 2011

JOINT SPONSORS: ASSEMBLYMEN HARDY AND STEWART

Referred to Committee on Judiciary

SUMMARY—Urges the Nevada Supreme Court to amend the Nevada Rules of Civil Procedure to require certain disclosures in class action lawsuits. (BDR S-563)

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 civil practice; urging the Nevada Supreme Court to amend the Nevada Rules of Civil Procedure to require an attorney in certain class actions to provide certain disclosures under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under the existing Nevada Rules of Civil Procedure, an attorney in certain class
2 actions is required to make certain disclosures to certain members of the class.
3 Specifically, those disclosures provide that: (1) the court will exclude a member of
4 the class if the member requests such an exclusion, or “opts out” of the class by a
5 specified date; (2) the judgment in the action will include all members of the class
6 who do not opt out of the class; and (3) any member of the class who does not opt
7 out of the class may enter an appearance with the court through the member’s
8 attorney. (N.R.C.P. 23) Under the existing Federal Rules of Civil Procedure, such
9 an attorney is also required to make other disclosures not specifically required
10 pursuant to N.R.C.P. 23, including: (1) the nature of the action; (2) the definition of
11 the class certified; (3) the class claims, issues or defenses; and (4) the time and
12 manner for requesting exclusion from the class. (F.R.C.P. 23) This bill urges the
13 Nevada Supreme Court to amend the Nevada Rules of Civil Procedure to require an
14 attorney in such class actions to make all the disclosures required pursuant to
15 F.R.C.P. 23 to each member of the class.



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

- 1 **Section 1.** The Legislature finds and declares that:
2 1. A class action is an efficient use of judicial resources which
3 provides a method of resolving many similar claims in one lawsuit
4 rather than litigating each of the claims in separate lawsuits.
5 2. A person may benefit greatly from remaining a member of a
6 class and participating in a class action.
7 3. However, a person may also suffer negative consequences as
8 a result of being included in a class action and may not understand
9 that he or she has the ability to opt out of the lawsuit.
10 4. Thus, it is important that each person who is included in a
11 class action make an informed decision regarding whether to remain
12 a member of the class and participate in the lawsuit or to opt out of
13 the lawsuit.
14 5. For a person to make such an informed decision, it is
15 necessary to provide the person with sufficient information
16 regarding the lawsuit and how to opt out of the lawsuit.
17 6. Under the existing Nevada Rules of Civil Procedure,
18 specifically N.R.C.P. 23, an attorney in certain class actions is
19 required to make certain disclosures to certain members of the class.
20 7. Under the existing Federal Rules of Civil Procedure,
21 specifically F.R.C.P. 23, such an attorney is also required to make
22 other disclosures not specifically required pursuant to N.R.C.P. 23,
23 including the nature of the action, the definition of the class
24 certified, the class claims, issues or defenses, and the time and
25 manner for requesting exclusion from the class.
26 8. Providing these additional disclosures would help a member
27 of a class to understand and appreciate more fully his or her decision
28 to remain in the lawsuit or to opt out of the lawsuit.
29 9. Therefore, the Legislature urges the Nevada Supreme Court
30 to amend the Nevada Rules of Civil Procedure to require all the
31 disclosures required pursuant to F.R.C.P. 23.

