

Amendment No. 493

Assembly Amendment to Assembly Bill No. 413	(BDR 21-587)
<b>Proposed by:</b> Assembly Committee on Government Affairs	
<b>Amends:</b> Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION		Initial and Date	SENATE ACTION		Initial and Date
Adopted	<input type="checkbox"/>	Lost <input type="checkbox"/>	Adopted	<input type="checkbox"/>	Lost <input type="checkbox"/>
Concurred In	<input type="checkbox"/>	Not <input type="checkbox"/>	Concurred In	<input type="checkbox"/>	Not <input type="checkbox"/>
Receded	<input type="checkbox"/>	Not <input type="checkbox"/>	Receded	<input type="checkbox"/>	Not <input type="checkbox"/>

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

EMR/EGO



Date: 4/13/2015

A.B. No. 413—Grants powers to certain cities to perform acts or duties which are not prohibited or limited by the Constitution or statute.  
(BDR 21-587)



ASSEMBLY BILL NO. 413—COMMITTEE  
ON GOVERNMENT AFFAIRS

MARCH 19, 2015

Referred to Committee on Government Affairs

SUMMARY—Grants powers to ~~to certain~~ **incorporated** cities to perform acts or duties which are not prohibited or limited by the Constitution or statute. (BDR 21-587)

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 cities; authorizing ~~to certain~~ **incorporated** cities **, with limited exceptions,** to exercise powers necessary for the effective operation of city government; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

In 1868, Judge John F. Dillon of the Iowa Supreme Court established a common-law rule of statutory interpretation known as Dillon's Rule, which limits the powers of local governments. (*Merriam v. Moody's Ex'rs*, 25 Iowa 163 (Iowa 1868)) Under Dillon's Rule, a local government is authorized to exercise only those powers which are: (1) expressly granted; (2) necessarily or fairly implied in or incident to the powers expressly granted; or (3) essential to the accomplishment of the declared purposes of the local government.

Under existing law, a city government is authorized to exercise only those powers expressly granted by the charter or laws creating the city, and the necessary means of employing those powers. (*Tucker v. Mayor of the City of Virginia*, 4 Nev. 20, 26 (1868)) This bill authorizes ~~the city council of a city whose population is 15,000 or more (currently the cities of Boulder City, Carson City, Elko, Fernley, Henderson, Las Vegas, Mesquite, North Las Vegas, Reno and Sparks);~~ **an incorporated city,** whether created by general law or by charter, **with limited exceptions,** to exercise all powers needed for the effective operation of the city government even if the power to perform these acts is neither express nor implied, so long as the power is not expressly prohibited or limited by constitutional or statutory provisions or granted to another entity.

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

**Section 1.** ~~Chapter 266 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.~~ **(Deleted by amendment.)**

**Sec. 2.** ~~It is expressly declared as the intent of the Legislature to grant a city council in a city whose population is 15,000 or more the powers necessary for~~

~~the effective operation of city government in such a city.~~ (Deleted by amendment.)

Sec. 3. ~~In a city whose population is 15,000 or more:~~

~~1. The rule of law that any doubt as to the existence of a power of a city council must be resolved against its existence is abrogated.~~

~~2. Any doubt as to the existence of a power of a city council must be resolved in favor of its existence. This rule applies even though a statute granting the power has been repealed.~~ (Deleted by amendment.)

Sec. 4. ~~In a city whose population is 15,000 or more:~~

~~1. The rule of law that a city council can exercise only powers:~~

~~(a) Expressly granted by statute;~~

~~(b) Necessarily or fairly implied in or incident to powers expressly granted; and~~

~~(c) Indispensable to the declared purposes of a city council;~~  
~~is abrogated.~~

~~2. A city council has:~~

~~(a) All powers granted it by statute; and~~

~~(b) All other powers necessary or desirable in the conduct of city affairs, even though not granted by statute.~~ (Deleted by amendment.)

Sec. 5. ~~A city council in a city whose population is 15,000 or more may exercise any power it has to the extent that the power is not expressly:~~

~~1. Denied by the Constitution of the State of Nevada;~~

~~2. Denied by the Constitution of the United States;~~

~~3. Denied by the laws of the State of Nevada; or~~

~~4. Granted to another entity.~~ (Deleted by amendment.)

Sec. 6. Chapter 268 of NRS is hereby amended by adding thereto the provisions set forth as sections 7 to ~~11~~, 12, inclusive, of this act.

Sec. 7. ~~It is expressly declared as the intent of the Legislature to grant to a city council in a city whose population is 15,000 or more~~ an incorporated city the powers necessary for the effective operation of city government in such a city.

Sec. 8. ~~In an incorporated city whose population is 15,000 or more:~~

1. The rule of law that any doubt as to the existence of a power of an incorporated city must be resolved against its existence is abrogated.

2. Any doubt as to the existence of a power of an incorporated city must be resolved in favor of its existence. This rule applies even though a statute granting the power has been repealed.

Sec. 9. ~~In an incorporated city whose population is 15,000 or more:~~

1. The rule of law that an incorporated city can exercise only powers:

(a) Expressly granted by statute;

(b) Necessarily or fairly implied in or incident to powers expressly granted; and

(c) Indispensable to the declared purposes of a city council,  
is abrogated.

2. An incorporated city has:

(a) All powers granted it by statute; and

(b) ~~All~~ Except as otherwise provided in section 12 of this act, all other powers necessary or desirable in the conduct of city affairs, even though not granted by statute.

Sec. 10. ~~An incorporated city whose population is 15,000 or more may exercise any power it has to the extent that the power is not expressly:~~

1. Denied by the Constitution of the State of Nevada;

2. Denied by the Constitution of the United States;

3. Denied by the laws of the State of Nevada; or

4. *Granted to another entity.*

Sec. 11. ~~*In an incorporated city whose population is 15,000 or more:*~~

1. *If there is a constitutional or statutory provision requiring a specific manner for exercising a power, an incorporated city that wishes to exercise the power shall do so in that manner.*

2. *If there is no constitutional or statutory provision requiring a specific manner for exercising a power, an incorporated city that wishes to exercise the power shall adopt an ordinance prescribing the specific manner and the details necessary for the full exercise of the power.*

Sec. 12. *1. Except as expressly authorized by a statute or city charter, an incorporated city shall not:*

*(a) Condition or limit its civil liability unless the condition or limitation is part of a legally executed contract or agreement between the incorporated city and another governmental entity or a private person or entity.*

*(b) Prescribe the law governing civil actions between private persons.*

*(c) Impose duties on another governmental entity unless the performance of the duties is part of a legally executed agreement between the incorporated city and another governmental entity.*

*(d) Impose a tax.*

*(e) Order or conduct an election.*

2. *Except as expressly authorized by a statute or city charter or necessarily or fairly implied in or incident to powers expressly granted in a statute or city charter, an incorporated city shall not:*

*(a) Impose a service charge or user fee; or*

*(b) Regulate business conduct that is subject to substantial regulation by a federal or state agency.*

Sec. 13. *This act becomes effective upon passage and approval.*