

Amendment No. 278

Senate Amendment to Senate Bill No. 29	(BDR 20-465)
Proposed by: Senate Committee on Government Affairs	
Amends: Summary: No 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.

HAC/JWP



Date: 4/6/2015

S.B. No. 29—Grants power to a board of county commissioners to perform certain acts which are not prohibited or limited by statute.
(BDR 20-465)



SENATE BILL NO. 29—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE NEVADA ASSOCIATION OF COUNTIES)

PREFILED DECEMBER 20, 2014

Referred to Committee on Government Affairs

SUMMARY—Grants power to a board of county commissioners to perform certain acts which are not prohibited or limited by statute. (BDR 20-465)

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 county government; authorizing a board of county commissioners to exercise the powers necessary ~~to ensure the health and safety of the public;~~ for the effective operation of county 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, county commissioners are authorized to exercise only those powers which are expressly granted and powers that are necessarily implied to carry out express powers. (*Sadler v. Board of County Comm'rs*, 15 Nev. 39, 42 (1880)) This bill authorizes a board of county commissioners, with limited exceptions, to exercise all powers ~~needed to ensure the health and safety of the public;~~ necessary for the effective operation of county government. even if such a power is neither express nor implied, so long as the power is not expressly prohibited or limited by constitutional or statutory provisions granted to another entity.

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

Section 1. Chapter 244 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. *It is expressly declared as the intent of the Legislature to grant a board of county commissioners the powers necessary ~~to ensure the health and safety of the public;~~ for the effective operation of county government.*

1 Sec. 3. 1. The rule of law that any doubt as to the existence of a power of
2 a board of county commissioners must be resolved against its existence is
3 abrogated. ~~as it pertains to action to ensure the health and safety of the public.~~

4 2. Any doubt as to the existence of the power of a board of county
5 commissioners ~~to take action to ensure the health and safety of the public~~ must
6 be resolved in favor of its existence. This rule applies even though a statute
7 granting the power has been repealed.

8 Sec. 4. 1. The rule of law that a board of county commissioners can
9 exercise only powers:

10 (a) Expressly granted by statute;

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

13 (c) Indispensable to the declared purposes of a board of county
14 commissioners,

15 is abrogated. ~~as it pertains to action to ensure the health and safety of the~~
16 ~~public.~~

17 2. A board of county commissioners has:

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

19 (b) All other powers necessary ~~to ensure the health and safety of the public,~~
20 or desirable in the conduct of county affairs even though not granted by statute.

21 Sec. 5. A board of county commissioners may exercise any power ~~to take~~
22 ~~action to ensure the health and safety of the public~~ to the extent that the power is
23 not expressly:

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

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

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

27 4. Granted to another entity.

28 Sec. 6. 1. If there is a constitutional or statutory provision requiring a
29 specific manner for exercising a power, ~~to take action to ensure the health and~~
30 ~~safety of the public,~~ a board of county commissioners that wishes to exercise the
31 power shall do so in that manner.

32 2. If there is no constitutional or statutory provision requiring a specific
33 manner for exercising a power, ~~to take action to ensure the health and safety of~~
34 ~~the public,~~ a board of county commissioners that wishes to exercise the power
35 shall adopt an ordinance prescribing a specific manner for exercising the power.

36 Sec. 7. 1. Except as expressly ~~granted~~ authorized by statute, a board of
37 county commissioners shall not:

38 ~~1. (a)~~ (a) Condition or limit its civil liability unless such condition or
39 limitation is part of a legally executed contract or agreement between the county
40 and another ~~political subdivision~~ governmental entity or a private person or
41 business.

42 ~~2. (b)~~ (b) Prescribe the law governing civil actions between private persons.

43 ~~3. (c)~~ (c) Impose duties on another ~~political subdivision~~ governmental entity
44 unless the performance of the duties is part of a legally executed agreement
45 between the county and another ~~political subdivision~~.

46 ~~4. (d)~~ (d) governmental entity.

47 ~~5. (e)~~ (e) Impose a tax.

48 ~~6. (f)~~ (f) Impose a service charge or user fee greater than the actual cost of
49 providing the services.

50 ~~7. (g)~~ (g) Regulate conduct that is regulated by a state agency.

51 ~~8. (h)~~ (h) Order or conduct an election.

1 2. Except as expressly authorized by statute or necessarily or fairly implied
2 in or incident to powers expressly granted by statute, a board of county
3 commissioners shall not:

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

5 (b) Regulate business activities that are subject to substantial regulation by a
6 federal or state agency.

7 **Sec. 8.** This act becomes effective on July 1, 2015.