

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.

~

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; 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, 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.*

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

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 This rule applies even though a statute granting the power has been repealed.*

Sec. 4. 1. *The rule of law that a board of county commissioners 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 board of county commissioners,

↪ is abrogated as it pertains to action to ensure the health and safety of the public.

2. *A board of county commissioners has:*

(a) All powers granted it by statute; and

(b) All other powers necessary to ensure the health and safety of the public, even though not granted by statute.

Sec. 5. *A board of county commissioners may exercise any power to take action to ensure the health and safety of the public 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. 6. 1. *If there is a constitutional or statutory provision requiring a specific manner for exercising a power to take action to ensure the health and safety of the public, a board of county commissioners 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 to take action to ensure*



1 *the health and safety of the public, a board of county*
2 *commissioners that wishes to exercise the power shall adopt an*
3 *ordinance prescribing a specific manner for exercising the power.*

4 **Sec. 7.** *Except as expressly granted by statute, a board of*
5 *county commissioners shall not:*

6 *1. Condition or limit its civil liability unless such condition or*
7 *limitation is part of a legally executed contract or agreement*
8 *between the county and another political subdivision or a private*
9 *person or business.*

10 *2. Prescribe the law governing civil actions between private*
11 *persons.*

12 *3. Impose duties on another political subdivision unless the*
13 *performance of the duties is part of a legally executed agreement*
14 *between the county and another political subdivision.*

15 *4. Impose a tax.*

16 *5. Impose a service charge or user fee greater than the actual*
17 *cost of providing the services.*

18 *6. Regulate conduct that is regulated by a state agency.*

19 *7. Order or conduct an election.*

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

