

ASSEMBLY BILL NO. 379—ASSEMBLYMAN DALY

MARCH 21, 2019

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to local governments. (BDR 20-638)

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 local government; revising the powers that a board of county commissioners or the governing body of an incorporated city may exercise without express statutory authority; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law authorizes a board of county commissioners or the governing body
2 of an incorporated city to exercise powers necessary or proper to address matters of
3 local concern, whether or not such powers are expressly granted to the board or
4 governing body. Existing law also generally prohibits a board of county
5 commissioners or the governing body of an incorporated city from exercising
6 certain powers without express statutory authority, including, without limitation,
7 imposing a tax or ordering or conducting an election. (NRS 244.146, 268.0035)
8 This bill prohibits a board of county commissioners or the governing body of an
9 incorporated city from exercising any power or right granted to this State by federal
10 law or regulation without express statutory authority.

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

1 Section 1. NRS 244.146 is hereby amended to read as follows:
2 244.146 1. Except as prohibited, limited or preempted by the
3 Constitution, statutes or regulations of the United States or this State
4 and except as otherwise provided in this section, a board of county
5 commissioners has:
6 (a) All powers expressly granted to the board;



1 (b) All powers necessarily or fairly implied in or incident to the  
2 powers expressly granted to the board; and

3 (c) All other powers necessary or proper to address matters of  
4 local concern for the effective operation of county government,  
5 whether or not the powers are expressly granted to the board. If  
6 there is any fair or reasonable doubt concerning the existence of a  
7 power of the board to address a matter of local concern pursuant to  
8 this paragraph, it must be presumed that the board has the power  
9 unless the presumption is rebutted by evidence of a contrary intent  
10 by the Legislature.

11 2. If there is a constitutional or statutory provision requiring a  
12 board of county commissioners to exercise a power set forth in  
13 subsection 1 in a specific manner, the board may exercise the power  
14 only in that specific manner, but if there is no constitutional or  
15 statutory provision requiring the board to exercise the power in a  
16 specific manner, the board may adopt an ordinance prescribing a  
17 specific manner for exercising the power.

18 3. Except as expressly authorized by statute, a board of county  
19 commissioners shall not:

20 (a) Condition or limit its civil liability unless such condition or  
21 limitation is part of a legally executed contract or agreement  
22 between the county and another governmental entity or a private  
23 person or entity.

24 (b) Prescribe the law governing civil actions between private  
25 persons or entities.

26 (c) Impose duties on another governmental entity unless the  
27 performance of the duties is part of a legally executed agreement  
28 between the county and another governmental entity.

29 (d) Impose a tax.

30 (e) Order or conduct an election.

31 *(f) Exercise any power or right granted to this State by federal*  
32 *law or regulation.*

33 4. Except as expressly authorized by statute or necessarily or  
34 fairly implied in or incident to powers expressly authorized by  
35 statute, a board of county commissioners shall not:

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

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

39 **Sec. 2.** NRS 268.0035 is hereby amended to read as follows:

40 268.0035 1. Except as prohibited, limited or preempted by  
41 the Constitution, statutes or regulations of the United States or this  
42 State and except as otherwise provided in this section, the governing  
43 body of an incorporated city has:

44 (a) All powers expressly granted to the governing body;



1 (b) All powers necessarily or fairly implied in or incident to the  
2 powers expressly granted to the governing body; and

3 (c) All other powers necessary or proper to address matters of  
4 local concern for the effective operation of city government,  
5 whether or not the powers are expressly granted to the governing  
6 body. If there is any fair or reasonable doubt concerning the  
7 existence of a power of the governing body to address a matter of  
8 local concern pursuant to this paragraph, it must be presumed that  
9 the governing body has the power unless the presumption is rebutted  
10 by evidence of a contrary intent by the Legislature.

11 2. If there is a constitutional or statutory provision or provision  
12 of a city charter requiring the governing body of an incorporated  
13 city to exercise a power set forth in subsection 1 in a specific  
14 manner, the governing body may exercise the power only in that  
15 specific manner, but if there is no constitutional or statutory  
16 provision or provision of city charter requiring the governing body  
17 to exercise the power in a specific manner, the governing body may  
18 adopt an ordinance prescribing a specific manner for exercising the  
19 power.

20 3. Except as expressly authorized by statute or city charter, the  
21 governing body of an incorporated city shall not:

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

26 (b) Prescribe the law governing civil actions between private  
27 persons or entities.

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

31 (d) Impose a tax.

32 (e) Order or conduct an election.

33 ***(f) Exercise any power or right granted to this State by federal***  
34 ***law or regulation.***

35 4. Except as expressly authorized by statute or city charter or  
36 necessarily or fairly implied in or incident to powers expressly  
37 authorized by statute or city charter, the governing body of an  
38 incorporated city shall not:

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

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

42 **Sec. 3.** This act becomes effective upon passage and approval.



