ASSEMBLY BILL NO. 413–COMMITTEE
ON GOVERNMENT AFFAIRS

MARCH 19, 2015
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Referred to Committee on Government Affairs

SUMMARY—Grants powers to certain 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 certain cities to exercise powers necessary for the effective operation of city government; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1   In 1868, Judge John F. Dillon of the Iowa Supreme Court established a
2 common-law rule of statutory interpretation known as Dillon's Rule, which limits
3 the powers of local governments. (*Merriam v. Moody's Ex'rs*, 25 Iowa 163 (Iowa
4 1868)) Under Dillon's Rule, a local government is authorized to exercise only those
5 powers which are: (1) expressly granted; (2) necessarily or fairly implied in or
6 incident to the powers expressly granted; or (3) essential to the accomplishment of
7 the declared purposes of the local government.
8   Under existing law, a city government is authorized to exercise only those
9 powers expressly granted by the charter or laws creating the city, and the necessary
10 means of employing those powers. (*Tucker v. Mayor of the City of Virginia*, 4 Nev.
11 20, 26 (1868)) This bill authorizes the city council of a city whose population is
12 15,000 or more (currently the cities of Boulder City, Carson City, Elko, Fernley,
13 Henderson, Las Vegas, Mesquite, North Las Vegas, Reno and Sparks), whether
14 created by general law or by charter, to exercise all powers needed for the effective
15 operation of the city government even if the power to perform these acts is neither
16 express nor implied, so long as the power is not expressly prohibited or limited by
17 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:

1   **Section 1.**   Chapter 266 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 6, inclusive, of this
3 act.
4   **Sec. 2.** *It is expressly declared as the intent of the Legislature*
5 *to grant a city council in a city whose population is 15,000 or more*
6 *the powers necessary for the effective operation of city government*
7 *in such a city.*
8   **Sec. 3.** *In a city whose population is 15,000 or more:*
9   *1. The rule of law that any doubt as to the existence of a*
10 *power of a city council must be resolved against its existence is*
11 *abrogated.*
12   *2. Any doubt as to the existence of a power of a city council*
13 *must be resolved in favor of its existence. This rule applies even*
14 *though a statute granting the power has been repealed.*
15   **Sec. 4.** *In a city whose population is 15,000 or more:*
16   *1. The rule of law that a city council can exercise only*
17 *powers:*
18   *(a) Expressly granted by statute;*
19   *(b) Necessarily or fairly implied in or incident to powers*
20 *expressly granted; and*
21   *(c) Indispensable to the declared purposes of a city council,*
22 ↪ *is abrogated.*
23   *2. A city council has:*
24   *(a) All powers granted it by statute; and*
25   *(b) All other powers necessary or desirable in the conduct of*
26 *city affairs, even though not granted by statute.*
27   **Sec. 5.** *A city council in a city whose population is 15,000 or*
28 *more may exercise any power it has to the extent that the power is*
29 *not expressly:*
30   *1. Denied by the Constitution of the State of Nevada;*
31   *2. Denied by the Constitution of the United States;*
32   *3. Denied by the laws of the State of Nevada; or*
33   *4. Granted to another entity.*
34   **Sec. 6.** Chapter 268 of NRS is hereby amended by adding
35 thereto the provisions set forth as sections 7 to 11, inclusive, of this
36 act.
37   **Sec. 7.** *It is expressly declared as the intent of the Legislature*
38 *to grant a city council in a city whose population is 15,000 or more*
39 *the powers necessary for the effective operation of city government*
40 *in such a city.*
41   **Sec. 8.** *In an incorporated city whose population is 15,000 or*
42 *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 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.