

ASSEMBLY BILL NO. 139—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE NEVADA
ASSOCIATION OF COUNTY RECORDERS)

FEBRUARY 21, 2007

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to local governmental administration. (BDR 20-325)

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 governmental administration; authorizing boards of county commissioners to apply for and accept certain rights over federal lands and to indemnify the Federal Government in connection with such rights; providing for the disposition of excess payments made to a county recorder; revising provisions relating to the appointment and oath of deputy sheriffs; exempting the sheriff of certain larger counties from the requirement to attend in person or by deputy all sessions in district court in that county; authorizing the judge of each district court and the justice of the peace in each justice court in certain larger counties to appoint a deputy marshal for the court; authorizing boards of county commissioners to delegate authority to approve certain claims for refunds of charges, fees or deposits paid to county departments of aviation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law authorizes boards of county commissioners to apply for and accept
- 2 grants of rights-of-way, permits, leases and patents over federal lands within the
- 3 National Forest System pursuant to certain federal laws. (NRS 244.277) **Section 1**
- 4 of this bill adds the Southern Nevada Public Lands Management Act of 1998,
- 5 Public Law 105-263, to the list of federal laws concerning lands with respect to
- 6 which boards of county commissioners may apply for and accept such land rights.



Section 1 of this bill also authorizes boards of county commissioners to indemnify the United States in connection with such land rights.

Under existing law, a county recorder collects various fees. (NRS 247.305) **Section 2** of this bill provides that if a fee collected by a county recorder exceeds by \$5 or less the amount required by law to be paid, the county recorder is required to deposit the overpayment with the county treasurer for credit to the county general fund. If the overpayment is more than \$5, the county recorder is required to refund the entire amount of the overpayment.

Existing law authorizes a sheriff to appoint, in writing, deputy sheriffs and requires each deputy sheriff to take an oath to discharge his duties. (NRS 248.040)

Section 3 of this bill changes the office where the oath and written appointment of a deputy sheriff must be officially retained from the county auditor to the county recorder. Under existing law, the oaths and written appointments of deputies of many county elected officers are recorded with the county recorder or their respective counties. (NRS 246.030, 247.040, 249.060, 250.060, 252.070, 253.025, 258.060)

Existing law requires each county sheriff to attend in person or by deputy all sessions of the district court in that county. (NRS 248.100) **Section 4** of this bill exempts the sheriff of a county whose population is 400,000 or more (currently Clark County) from that requirement.

Existing law authorizes the judge of each district court to appoint a bailiff for the court. (NRS 3.310) **Section 5** of this bill authorizes the judge of each district court in a county whose population is 400,000 or more (currently Clark County) to appoint a deputy marshal for the court and confers on those deputy marshals the duties and responsibilities of the bailiffs. **Section 5** also requires each deputy marshal to be certified as a category I peace officer within 18 months after appointment. **Section 6** of this bill authorizes the appointment of a deputy marshal for each justice court in a county whose population is 400,000 or more (currently Clark County) and also requires such deputy marshals to be certified as category I peace officers within 18 months after appointment. (Chapter 4 of NRS) **Section 11** of this bill provides that persons appointed before July 1, 2007, to serve as bailiffs of a district court or justice court in a county whose population is 400,000 or more (currently Clark County) are deemed to be deputy marshals if such persons are certified as category II peace officers on or before January 1, 2009.

Existing law authorizes boards of county commissioners to delegate to the county manager, the county administrator or, in counties without a manager or administrator, any other county employee the authority to approve certain claims for refunds of registration fees or deposits paid to the county department of parks and recreation. (NRS 354.240) **Section 10** of this bill authorizes boards of county commissioners to delegate to the same types of county officials or employees the authority to approve certain claims for refunds of charges, fees or deposits paid to the county department of aviation.

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

Section 1. NRS 244.277 is hereby amended to read as follows:
244.277 The board of county commissioners may apply for and accept:

1. Grants of rights-of-way, permits, leases and patents and subsequent renewals of grants of rights-of-way, permits, leases and patents over, upon, under or through any land or interest in land



owned by the United States and administered by the Secretary of the Interior through the Bureau of Land Management and by the Secretary of Agriculture with respect to lands within the National Forest System, pursuant to Title V of the Federal Land Policy and Management Act of 1976, 43 U.S.C. §§ 1761-1771, ~~and~~ the Recreation and Public Purposes Act, 43 U.S.C. §§ 869-869-4 ~~and~~, *and the Southern Nevada Public Land Management Act of 1998, Public Law 105-263*; and

2. Special use permits for parks, forests and public property owned by the United States and administered by the Secretary of Agriculture, through the United States Forest Service, pursuant to Title 16 of the United States Code and 36 C.F.R. Part 251,
 ➤ and in connection therewith may *indemnify the United States and may* comply with federal regulations and stipulations consistent with the federal statutes and regulations set forth in this section or any other applicable federal statute or regulation.

Sec. 2. NRS 247.305 is hereby amended to read as follows:

247.305 1. If another statute specifies the fee to be charged for a service, county recorders shall charge and collect only the fee specified. Otherwise, unless prohibited by NRS 375.060, county recorders shall charge and collect the following fees:

For recording any document, for the first page.....	\$10
For each additional page	1
For recording each portion of a document which must be separately indexed, after the first indexing.....	3
For copying any record, for each page.....	1
For certifying, including certificate and seal.....	4
For a certified copy of a certificate of marriage.....	10
For a certified abstract of a certificate of marriage	10

2. Except as otherwise provided in this subsection and NRS 375.060, a county recorder may charge and collect, in addition to any fee that a county recorder is otherwise authorized to charge and collect, an additional fee not to exceed \$3 for recording a document, instrument, paper, notice, deed, conveyance, map, chart, survey or any other writing. A county recorder may not charge the additional fee authorized in this subsection for recording the originally signed copy of a certificate of marriage described in NRS 122.120. On or before the fifth day of each month, the county recorder shall pay the amount of fees collected by him pursuant to this subsection to the county treasurer for credit to the account established pursuant to NRS 247.306.



3. Except as otherwise provided in this subsection and NRS 375.060, a county recorder shall charge and collect, in addition to any fee that a county recorder is otherwise authorized to charge and collect, an additional fee of \$1 for recording a document, instrument, paper, notice, deed, conveyance, map, chart, survey or any other writing. A county recorder shall not charge the additional fee authorized in this subsection for recording the originally signed copy of a certificate of marriage described in NRS 122.120. On or before the fifth day of each month, the county recorder shall pay the amount of fees collected by him pursuant to this subsection to the county treasurer. On or before the 15th day of each month, the county treasurer shall remit the money received by him pursuant to this subsection to the State Treasurer for credit to the Account to Assist Persons Formerly in Foster Care established pursuant to NRS 432.017.

4. Except as otherwise provided in this subsection, subsection 5 or by specific statute, a county recorder shall charge and collect, in addition to any fee that a county recorder is otherwise authorized to charge and collect, an additional fee of \$25 for recording any document that does not meet the standards set forth in subsection 3 of NRS 247.110. A county recorder shall not charge the additional fee authorized by this subsection for recording a document that is exempt from the provisions of subsection 3 of NRS 247.110.

5. Except as otherwise provided in subsection 6, a county recorder shall not charge or collect any fees for any of the services specified in this section when rendered by him to:

(a) The county in which his office is located.

(b) The State of Nevada or any city or town within the county in which his office is located, if the document being recorded:

(1) Conveys to the State, or to that city or town, an interest in land;

(2) Is a mortgage or deed of trust upon lands within the county which names the State or that city or town as beneficiary;

(3) Imposes a lien in favor of the State or that city or town; or

(4) Is a notice of the pendency of an action by the State or that city or town.

6. A county recorder shall charge and collect the fees specified in this section for copying any document at the request of the State of Nevada, and any city or town within the county. For copying, and for his certificate and seal upon the copy, the county recorder shall charge the regular fee.

7. For the purposes of this section, "State of Nevada," "county," "city" and "town" include any department or agency thereof and any officer thereof in his official capacity.



8. *If the amount of money collected by a county recorder for a fee pursuant to this section:*

(a) *Exceeds by \$5 or less the amount required by law to be paid, the county recorder shall deposit the excess payment with the county treasurer for credit to the county general fund.*

(b) *Exceeds by more than \$5 the amount required by law to be paid, the county recorder shall refund the entire amount of the excess payment.*

9. Except as otherwise provided in subsection 2, ~~for~~ 3 or 8 or by an ordinance adopted pursuant to the provisions of NRS 244.207, county recorders shall, on or before the fifth working day of each month, account for and pay to the county treasurer all such fees collected during the preceding month.

Sec. 3. NRS 248.040 is hereby amended to read as follows:

248.040 1. Except as provided in NRS 248.045, each sheriff may:

(a) Appoint, in writing signed by him, one or more deputies, who may perform all the duties devolving on the sheriff of the county and such other duties as the sheriff may from time to time direct. The appointment of a deputy sheriff must not be construed to confer upon that deputy policymaking authority for the office of the sheriff or the county by which the deputy sheriff is employed.

(b) Except as otherwise provided in this paragraph, only remove a deputy who has completed a probationary period of 12 months for cause. A deputy who functions as the head of a department or an administrative employee or who has not completed the probationary period may be removed at the sheriff's pleasure.

2. No deputy sheriff is qualified to act as such unless he has taken an oath to discharge the duties of the office faithfully and impartially. The oath, *together with the written appointment*, must be ~~certified on the back of his appointment and filed~~ recorded in the office of the *recorder of the county* ~~auditor~~ *within which the sheriff legally holds and exercises his office. Revocations of such appointments must be recorded as provided in this subsection. From the time of the recording of the appointments or revocations therein, persons shall be deemed to have notice of the appointments or revocations.*

3. The sheriff may require of his deputies such bonds as to him seem proper.

Sec. 4. NRS 248.100 is hereby amended to read as follows:

248.100 1. The sheriff shall:

(a) ~~Attend~~ *Except in a county whose population is 400,000 or more, attend* in person, or by deputy, all sessions of the district court in his county.



(b) Obey all the lawful orders and directions of the ~~{same.}~~
district court in his county.

(c) Except as otherwise provided in subsection 2, execute the process, writs or warrants of courts of justice, judicial officers and coroners, when delivered to him for that purpose.

2. The sheriff may authorize the constable of the appropriate township to receive and execute the process, writs or warrants of courts of justice, judicial officers and coroners.

Sec. 5. NRS 3.310 is hereby amended to read as follows:

3.310 1. ~~{The}~~ *Except as otherwise provided in this subsection, the* judge of each district court may appoint a bailiff for the court in counties polling 4,500 or more votes. In counties polling less than 4,500 votes, the judge may appoint a bailiff with the concurrence of the sheriff. *Subject to the provisions of subsections 2, 4 and 10, in a county whose population is 400,000 or more, the judge of each district court may appoint a deputy marshal for the court instead of a bailiff.* In ~~{either}~~ *each* case, the bailiff *or deputy marshal* serves at the pleasure of the judge he serves.

2. In all judicial districts where there is more than one judge, there may be a number of bailiffs *or deputy marshals* at least equal to the number of judges, and in any judicial district where a circuit judge has presided for more than 50 percent of the regular judicial days of the prior calendar year, there may be one additional bailiff ~~{}~~ *or deputy marshal*, each bailiff *or deputy marshal* to be appointed by the joint action of the judges. If the judges cannot agree upon the appointment of any bailiff *or deputy marshal* within 30 days after a vacancy occurs in the office of bailiff ~~{}~~ *or deputy marshal*, then the appointment must be made by a majority of the board of county commissioners.

3. Each bailiff *or deputy marshal* shall:

(a) Preserve order in the court.

(b) Attend upon the jury.

(c) Open and close court.

(d) Perform such other duties as may be required of him by the judge of the court.

4. The bailiff *or deputy marshal* must be a qualified elector of the county and shall give a bond, to be approved by the district judge, in the sum of \$2,000, conditioned for the faithful performance of his duty.

5. The compensation of each bailiff *or deputy marshal* for his services must be fixed by the board of county commissioners of the county and his salary paid by the county wherein he is appointed, the same as the salaries of other county officers are paid.

6. The board of county commissioners of the respective counties shall allow the salary stated in subsection 5 as other salaries



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1 are allowed to county officers, and the county auditor shall draw his
2 warrant for it, and the county treasurer shall pay it.

3 7. The provisions of this section do not:

4 (a) Authorize the bailiff *or deputy marshal* to serve any civil or
5 criminal process, except such orders of the court which are specially
6 directed by the court or the presiding judge thereof to him for
7 service.

8 (b) ~~[Relieve]~~ *Except in a county whose population is 400,000*
9 *or more, relieve* the sheriff of any duty required of him by law to
10 maintain order in the courtroom.

11 8. *If a deputy marshal is appointed for a court pursuant to*
12 *subsection 1, each session of the court must be attended by the*
13 *deputy marshal.*

14 9. *For good cause shown, a deputy marshal appointed for a*
15 *court pursuant to subsection 1 may be assigned temporarily to*
16 *assist other judicial departments or assist with court*
17 *administration as needed.*

18 10. *A person appointed to be a deputy marshal for a court*
19 *pursuant to subsection 1 must be certified by the Peace Officers'*
20 *Standards and Training Commission as a category I peace officer*
21 *not later than 18 months after appointment.*

22 **Sec. 6.** Chapter 4 of NRS is hereby amended by adding thereto
23 a new section to read as follows:

24 1. *Subject to the provisions of subsections 2, 4 and 10, in a*
25 *county whose population is 400,000 or more, the justice of the*
26 *peace for each justice court may appoint a deputy marshal for*
27 *the court instead of a bailiff. The deputy marshal serves at the*
28 *pleasure of the justice of the peace that he serves.*

29 2. *In all townships where there is more than one justice of the*
30 *peace, there may be a number of deputy marshals at least equal to*
31 *the number of justices of the peace. If the justices of the peace*
32 *cannot agree upon the appointment of any deputy marshal within*
33 *30 days after a vacancy occurs in the office of deputy marshal, the*
34 *appointment must be made by a majority of the board of county*
35 *commissioners.*

36 3. *Each deputy marshal shall:*

37 (a) *Preserve order in the court.*

38 (b) *Open and close court.*

39 (c) *Perform other such duties as may be required of him by the*
40 *justice of the peace of the court.*

41 4. *The deputy marshal must be a qualified elector of the*
42 *county and shall give bond, to be approved by the justice of the*
43 *peace, in the sum of \$2,000, conditioned for the faithful*
44 *performance of his duty.*



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1 5. *The compensation of each deputy marshal for his services*
2 *must be fixed by the board of county commissioners of the county*
3 *and his salary paid by the county wherein he is appointed, the*
4 *same as the salaries of other county officers are paid.*

5 6. *The board of county commissioners of the respective*
6 *counties shall allow the salary stated in subsection 5 as other*
7 *salaries are allowed to county officers, and the county auditor*
8 *shall draw his warrant for it, and the county treasurer shall pay it.*

9 7. *The provisions of this section do not authorize the deputy*
10 *marshal to serve any civil or criminal process, except such orders*
11 *of the court which are specially directed by the court or the*
12 *presiding justice of the peace thereof to him for service.*

13 8. *If a deputy marshal is appointed for a court pursuant to*
14 *subsection 1, each session of the court must be attended by the*
15 *deputy marshal.*

16 9. *For good cause shown, a deputy marshal appointed for a*
17 *court pursuant to subsection 1 may be assigned temporarily to*
18 *assist other justice courts or assist with court administration as*
19 *needed.*

20 10. *A person appointed to be a deputy marshal pursuant to*
21 *subsection 1 must be certified by the Peace Officers' Standards*
22 *and Training Commission as a category I peace officer not later*
23 *than 18 months after appointment.*

24 **Sec. 7.** NRS 18.005 is hereby amended to read as follows:

25 18.005 For the purposes of NRS 18.010 to 18.150, inclusive,
26 the term "costs" means:

27 1. Clerks' fees.

28 2. Reporters' fees for depositions, including a reporter's fee for
29 one copy of each deposition.

30 3. Jurors' fees and expenses, together with reasonable
31 compensation of an officer appointed to act in accordance with
32 NRS 16.120.

33 4. Fees for witnesses at trial, pretrial hearings and deposing
34 witnesses, unless the court finds that the witness was called at the
35 instance of the prevailing party without reason or necessity.

36 5. Reasonable fees of not more than five expert witnesses in an
37 amount of not more than \$1,500 for each witness, unless the court
38 allows a larger fee after determining that the circumstances
39 surrounding the expert's testimony were of such necessity as to
40 require the larger fee.

41 6. Reasonable fees of necessary interpreters.

42 7. The fee of any sheriff or licensed process server for the
43 delivery or service of any summons or subpoena used in the action,
44 unless the court determines that the service was not necessary.



8. Compensation for the official reporter or reporter pro tempore.

9. Reasonable costs for any bond or undertaking required as part of the action.

10. Fees of a court bailiff *or deputy marshal* who was required to work overtime.

11. Reasonable costs for telecopies.

12. Reasonable costs for photocopies.

13. Reasonable costs for long distance telephone calls.

14. Reasonable costs for postage.

15. Reasonable costs for travel and lodging incurred taking depositions and conducting discovery.

16. Fees charged pursuant to NRS 19.0335.

17. Any other reasonable and necessary expense incurred in connection with the action, including reasonable and necessary expenses for computerized services for legal research.

Sec. 8. NRS 289.150 is hereby amended to read as follows:

289.150 The following persons have the powers of a peace officer:

1. Sheriffs of counties and of metropolitan police departments, their deputies and correctional officers.

2. Marshals, policemen and correctional officers of cities and towns.

3. The bailiff of the Supreme Court.

4. The bailiffs *and deputy marshals* of the district courts, Justice Courts and municipal courts whose duties require them to carry weapons and make arrests.

5. Constables and their deputies whose official duties require them to carry weapons and make arrests.

Sec. 9. NRS 289.550 is hereby amended to read as follows:

289.550 1. Except as otherwise provided in subsection 2, *NRS 3.310 and section 6 of this act*, a person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive, must be certified by the Commission within 1 year after the date on which the person commences employment as a peace officer unless the Commission, for good cause shown, grants in writing an extension of time, which must not exceed 6 months, by which the person must become certified. A person who fails to become certified within the required time shall not exercise any of the powers of a peace officer after the time for becoming certified has expired.

2. The following persons are not required to be certified by the Commission:

(a) The Chief Parole and Probation Officer;

(b) The Director of the Department of Corrections;



(c) The State Fire Marshal;

(d) The Director of the Department of Public Safety, the deputy directors of the Department, the chiefs of the divisions of the Department other than the Investigation Division and the Nevada Highway Patrol, and the members of the State Disaster Identification Team of the Division of Emergency Management of the Department;

(e) The Commissioner of Insurance and his chief deputy;

(f) Railroad policemen; and

(g) California correctional officers.

Sec. 10. NRS 354.240 is hereby amended to read as follows:

354.240 1. If a board of county commissioners determines by competent evidence that money has been paid into the treasury of the county under any of the circumstances mentioned in NRS 354.220, the board of county commissioners, by its unanimous resolution, may direct the county treasurer to refund to the applicant the amount of money paid into the county treasury in excess of the amount legally payable.

2. In the case of a claim for a refund of property tax, if the board has unanimously found that the applicant is entitled to a refund, it shall direct the county treasurer to refund to the applicant the amount claimed if the claim is made within 3 years after the tax was due. The county may withhold amounts refunded from its subsequent apportionments of revenues from property tax to the other taxing units in the county which levied a tax represented in the combined tax rate.

3. If the county treasurer determines by competent evidence that money in the amount of \$500 or less has been paid into the county treasury under any of the circumstances listed in NRS 354.220, he may, upon receiving the written approval of the district attorney, refund to the applicant the amount paid which is in excess of the amount legally payable.

4. In the case of a claim for a refund of property tax which has been authorized and approved in the manner provided in subsection 3, the county treasurer shall make a refund to the applicant in the amount claimed if the claim is made within 3 years after the tax was due. The county may withhold amounts refunded from its subsequent apportionments of revenues from property tax to the other taxing units in the county which levied a tax represented in the combined tax rate.

5. A board of county commissioners may, in the case of a claim for a refund of a registration fee or deposit paid to the county department of parks and recreation, delegate the authority to approve all such claims of less than \$1,000, to:

(a) The county manager or his designee;



- 1 (b) The county administrator or his designee; or
2 (c) In a county that has neither a county manager nor a county
3 administrator, any other county employee.

4 6. *A board of county commissioners may, in the case of a*
5 *claim for a refund of any charges, fees or deposits paid to the*
6 *county department of aviation, delegate the authority to approve*
7 *all such claims of less than \$100, to:*

- 8 (a) *The county manager or his designee;*
9 (b) *The county administrator or his designee; or*
10 (c) *In a county that has neither a county manager nor a*
11 *county administrator, any other county employee.*

12 7. A county treasurer, upon receiving written approval of a
13 claim pursuant to subsection 5 ~~or 6~~, may refund to the applicant
14 the amount of the refund due.

15 ~~or 7~~ 8. At the end of each month the county treasurer shall
16 provide to the board of county commissioners a list of all refunds
17 made by him during that month. The list must contain the name of
18 each taxpayer or other person to whom a refund was made and the
19 amount of the refund. The county treasurer shall maintain a copy of
20 the list and make it available for public inspection.

21 **Sec. 11.** Notwithstanding the provisions of NRS 3.310, as
22 amended by section 5 of this act, and section 6 of this act, a person
23 appointed before July 1, 2007, to serve as the bailiff for a district
24 court or justice court in a county whose population is 400,000 or
25 more:

26 1. Must be certified by the Peace Officers' Standards and
27 Training Commission as a category II peace officer on or before
28 January 1, 2009; and

29 2. On and after July 1, 2007, shall be deemed to be a deputy
30 marshal with the duties thereof pursuant to NRS 3.310, as amended
31 by section 5 of this act, or section 6 of this act, unless the person
32 does not comply with the requirement set forth in subsection 1 by
33 January 1, 2009.

34 **Sec. 12.** 1. This section and section 11 of this act become
35 effective upon passage and approval.

36 2. Sections 1 to 10, inclusive, of this act become effective on
37 July 1, 2007.

