

Amendment No. 961

Senate Amendment to Assembly Bill No. 65 Second Reprint (BDR 2-372)

Proposed by: Senator Townsend

Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: No

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 65 (§§ 2, 3, 5).

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) *green bold italic underlining* is new language proposed 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 that is proposed to be retained in this amendment; and (6) *green bold dashed underlining* is newly added transitory language.

NCA/RRY



Date: 5/28/2009

A.B. No. 65—Provides for the collection and disposition of additional court fees.
(BDR 2-372)



ASSEMBLY BILL NO. 65—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE NEVADA SUPREME COURT)

PREFILED DECEMBER 11, 2008

Referred to Committee on Judiciary

SUMMARY—Provides for the collection and disposition of additional court fees.
(BDR 2-372)

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 courts; providing for the collection and disposition of additional court fees; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill: (1) authorizes a district court to charge and collect certain additional filing fees; (2) requires the fees to be deposited into a special county account maintained for the benefit of the court; and (3) provides that the fees may be used only for court staffing, capital costs, debt service, renovation, furniture, fixtures, equipment, technology, and in counties whose population is less than 100,000 (currently counties other than Clark and Washoe Counties), for court appointed special advocate programs.

Section 3 of this bill authorizes a board of county commissioners to impose by ordinance a filing fee of not more than \$20 to be paid on the commencement of any civil action or proceeding in the district court and provides that the fee may be used only for programs for court security or for reimbursement of capital costs for maintaining new judicial departments and must not supplant existing budgets for bailiffs or deputy marshals assigned to work in a courtroom. **Section 5** of this bill requires a county recorder to collect a fee of \$50 upon the filing of any notice of default and election to sell and provides that such fees must be deposited in a special account to support a program of foreclosure mediation established by Supreme Court Rule. However, **section 5** also provides that 1.5 percent of the fees collected may be placed in a special account for use by the office of the county recorder. (NRS 107.080)

Section 6 of this bill provides that notwithstanding the uses provided for the fees in **section 2** of this bill, the fees collected pursuant to **section 2** must also be used to fund the cost of the salary and benefits of any district judge added by Assembly Bill No. 64 of this session for the period from January 1, 2011, through June 30, 2011.

Section 7 of this bill requires the county treasurer of a county in which a district judge is added by Assembly Bill No. 64 of this session to remit, from the special account administered and maintained pursuant to **section 2** of this bill, an amount equal to \$104,104 to the State Controller for credit to the District Judges' Salary Account of the Supreme Court for each judge added in that county.

Section 8 of this bill provides that **sections 6 and 7** of this bill become effective if, and only if, Assembly Bill No. 64 of this session is enacted by the Legislature and becomes effective.

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

Section 1. Chapter 19 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *1. Except as otherwise provided by specific statute and in addition to any other fee required by law, each clerk of the court or county clerk, as appropriate, shall charge and collect the following fees:*

(a) On the commencement of any action or proceeding in the district court, other than those listed in paragraphs (c), (e) and (f), or on the transfer of any action or proceeding from a district court of another county, to be paid by the party commencing the action, proceeding or transfer.....\$99

(b) On the appearance of any defendant or any number of defendants answering jointly, to be paid upon the filing of the first paper in the action by him or them.....\$99

(c) On the filing of a petition for letters testamentary, letters of administration or a guardianship, which fee does not include the court fee prescribed by NRS 19.020, to be paid by the petitioner:

(1) Where the stated value of the estate is \$200,000 or more.....\$352

(2) Where the stated value of the estate is more than \$20,000 but less than \$200,000.....\$99

(3) Where the stated value of the estate is \$20,000 or less, no fee may be charged or collected.

(d) On the filing of a motion for summary judgment or a joinder thereto.....\$200

(e) On the commencement of an action defined as a business matter pursuant to the local rules of practice and on the answer or appearance of any party in any such action or proceeding, to be paid by the party commencing, answering or appearing in the action or proceeding thereto.....\$1,359

(f) On the commencement of:

(1) An action for a constructional defect pursuant to NRS 40.600 to 40.695, inclusive; or

(2) Any other action defined as "complex" pursuant to the local rules of practice,

and on the answer or appearance of any party in any such action or proceeding, to be paid by the party commencing, answering or appearing in the action or proceeding.....\$349

(g) On the filing of a third-party complaint, to be paid by the filing party.....\$135

(h) On the filing of a motion to certify or decertify a class, to be paid by the filing party.....\$349

(i) For the issuance of any writ of attachment, writ of garnishment, writ of execution or any other writ designed to enforce any judgment of the court.....\$10

2. ~~Except as otherwise provided in subsection 4, fees~~ Fees collected pursuant to this section must be deposited into a special account administered by the county and maintained for the benefit of the court. The money in that account must be used only:

(a) To offset the costs for adding and maintaining new judicial departments, including, without limitation, the cost for additional staff;

(b) To reimburse the county for any capital costs incurred for maintaining any judicial departments that are added by the 75th Session of the Nevada Legislature; and

(c) If any money remains in the account in a fiscal year after satisfying the purposes set forth in paragraphs (a) and (b), to:

(1) Acquire land on which to construct additional facilities for the district court or a regional justice center that includes the district court;

(2) Construct or acquire additional facilities for the district court or a regional justice center that includes the district court;

(3) Renovate or remodel existing facilities for the district court or a regional justice center that includes the district court;

(4) Acquire furniture, fixtures and equipment necessitated by the construction or acquisition of additional facilities or the renovation of an existing facility for the district court or a regional justice center that includes the district court;

(5) Acquire advanced technology;

(6) Pay debt service on any bonds issued pursuant to subsection 3 of NRS 350.020 for the acquisition of land or facilities or the construction or renovation of facilities for the district court or a regional justice center that includes the district court;

(7) In a county whose population is less than 100,000, support court appointed special advocate programs for children, at the discretion of the judges of the judicial district; or

(8) Be carried forward to the next fiscal year.

3. Except as otherwise provided by specific statute, all fees prescribed in this section are payable in advance if demanded by the clerk of the court or county clerk.

4. Each clerk of the court or county clerk shall, on or before the fifth day of each month, account for and pay to the county treasurer ~~the~~

~~an amount equal to \$20 of each fee collected pursuant to paragraphs (a) and (b) of subsection 1 during the preceding month. The county treasurer shall remit quarterly to the organization operating a program for legal services as set forth in NRS 19.031 all the money received from the clerk of the court or county clerk pursuant to this subsection.~~

~~(b) All remaining~~ all fees collected pursuant to this section during the preceding month.

Sec. 3. 1. In any county, the board of county commissioners may, in addition to any other fee required by law, impose by ordinance a filing fee of not more than \$20 to be paid on the commencement of any civil action or proceeding in the district court for which a filing fee is required and on the filing of any answer or appearance in any such action or proceeding for which a filing fee is required, except as otherwise required pursuant to NRS 19.034.

2. On or before the fifth day of each month, in a county where a fee has been imposed pursuant to subsection 1, the clerk of the court shall account for and pay over to the county treasurer any such fees collected by him during the preceding month for credit to an account for programs for court security in the county general fund. The money in that account must be administered by the county and:

(a) May be used only for programs for court security or to reimburse the county for any capital costs incurred for maintaining any judicial departments that are added by the 75th Session of the Nevada Legislature;

1 (b) *Must not be used to supplant existing budgets for bailiffs or deputy*
2 *marshals who are assigned to work in a courtroom; and*

3 (c) *If any balance remains, may be carried forward to the next fiscal year.*

4 3. *As used in this section, "programs for court security" includes, without*
5 *limitation:*

6 (a) *Funding for additional positions for bailiffs, marshals, security guards or*
7 *similar personnel;*

8 (b) *Supplementing existing funding used to pay bailiffs, marshals, security*
9 *guards and similar personnel;*

10 (c) *Acquiring necessary capital goods for court security;*

11 (d) *Providing security training and education to personnel;*

12 (e) *Conducting security audits; and*

13 (f) *Acquiring or using appropriate technology relating to court security.*

14 Sec. 4. (Deleted by amendment.)

15 Sec. 5. NRS 107.080 is hereby amended to read as follows:

16 107.080 1. Except as otherwise provided in NRS 107.085, if any transfer in
17 trust of any estate in real property is made after March 29, 1927, to secure the
18 performance of an obligation or the payment of any debt, a power of sale is hereby
19 conferred upon the trustee to be exercised after a breach of the obligation for which
20 the transfer is security.

21 2. The power of sale must not be exercised, however, until:

22 (a) In the case of any trust agreement coming into force:

23 (1) On or after July 1, 1949, and before July 1, 1957, the grantor, or his
24 successor in interest, a beneficiary under a subordinate deed of trust or any other
25 person who has a subordinate lien or encumbrance of record on the property, has
26 for a period of 15 days, computed as prescribed in subsection 3, failed to make
27 good the deficiency in performance or payment; or

28 (2) On or after July 1, 1957, the grantor, or his successor in interest, a
29 beneficiary under a subordinate deed of trust or any other person who has a
30 subordinate lien or encumbrance of record on the property, has for a period of 35
31 days, computed as prescribed in subsection 3, failed to make good the deficiency in
32 performance or payment;

33 (b) The beneficiary, the successor in interest of the beneficiary or the trustee
34 first executes and causes to be recorded in the office of the recorder of the county
35 wherein the trust property, or some part thereof, is situated a notice of the breach
36 and of his election to sell or cause to be sold the property to satisfy the obligation;
37 and

38 (c) Not less than 3 months have elapsed after the recording of the notice.

39 3. The 15- or 35-day period provided in paragraph (a) of subsection 2
40 commences on the first day following the day upon which the notice of default and
41 election to sell is recorded in the office of the county recorder of the county in
42 which the property is located and a copy of the notice of default and election to sell
43 is mailed by registered or certified mail, return receipt requested and with postage
44 prepaid to the grantor, and to the person who holds the title of record on the date the
45 notice of default and election to sell is recorded, at their respective addresses, if
46 known, otherwise to the address of the trust property. The notice of default and
47 election to sell must describe the deficiency in performance or payment and may
48 contain a notice of intent to declare the entire unpaid balance due if acceleration is
49 permitted by the obligation secured by the deed of trust, but acceleration must not
50 occur if the deficiency in performance or payment is made good and any costs, fees
51 and expenses incident to the preparation or recordation of the notice and incident to
52 the making good of the deficiency in performance or payment are paid within the
53 time specified in subsection 2.

1 4. The trustee, or other person authorized to make the sale under the terms of
2 the trust deed or transfer in trust, shall, after expiration of the 3-month period
3 following the recording of the notice of breach and election to sell, and before the
4 making of the sale, give notice of the time and place thereof by recording the notice
5 of sale and by:

6 (a) Providing the notice to each trustor and any other person entitled to notice
7 pursuant to this section by personal service or by mailing the notice by registered or
8 certified mail to the last known address of the trustor and any other person entitled
9 to such notice pursuant to this section;

10 (b) Posting a similar notice particularly describing the property, for 20 days
11 successively, in three public places of the township or city where the property is
12 situated and where the property is to be sold; and

13 (c) Publishing a copy of the notice three times, once each week for 3
14 consecutive weeks, in a newspaper of general circulation in the county where the
15 property is situated.

16 5. Every sale made under the provisions of this section and other sections of
17 this chapter vests in the purchaser the title of the grantor and his successors in
18 interest without equity or right of redemption. A sale made pursuant to this section
19 may be declared void by any court of competent jurisdiction in the county where
20 the sale took place if:

21 (a) The trustee or other person authorized to make the sale does not
22 substantially comply with the provisions of this section;

23 (b) Except as otherwise provided in subsection 6, an action is commenced in
24 the county where the sale took place within 90 days after the date of the sale; and

25 (c) A notice of lis pendens providing notice of the pendency of the action is
26 recorded in the office of the county recorder of the county where the sale took place
27 within 30 days after commencement of the action.

28 6. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of
29 subsection 4 to the grantor, to the person who holds the title of record on the date
30 the notice of default and election to sell is recorded, to each trustor or to any other
31 person entitled to such notice, the person who did not receive such proper notice
32 may commence an action pursuant to subsection 5 within 120 days after the date on
33 which the person received actual notice of the sale.

34 7. The sale of a lease of a dwelling unit of a cooperative housing corporation
35 vests in the purchaser title to the shares in the corporation which accompany the
36 lease.

37 8. *The county recorder shall, in addition to any other fee, at the time of*
38 *recording a notice of default and election to sell collect the sum of \$50 for deposit*
39 *in the Account for Foreclosure Mediation, which is hereby created in the State*
40 *General Fund. The fees collected must be paid over to the county treasurer by the*
41 *county recorder on or before the fifth day of each month for the preceding*
42 *calendar month, and, except as otherwise provided in this subsection, must be*
43 *placed to the credit of the Account. The county recorder may direct that 1.5*
44 *percent of the fees collected by the county recorder be transferred into a special*
45 *account for use by the office of the county recorder. The county treasurer shall,*
46 *on or before the 15th day of each month, remit the fees deposited by the county*
47 *recorder for the Account for Foreclosure Mediation to the State Controller for*
48 *credit to the Account. The Account must be administered by the Court*
49 *Administrator, and the money in the Account may be expended only for the*
50 *purpose of supporting a program of foreclosure mediation established by*
51 *Supreme Court Rule.*

52 **Sec. 6.** Notwithstanding any provision of section 2 of this act to the contrary,
53 the fees collected pursuant to section 2 of this act and deposited in the special

1 account administered by the county and maintained for the benefit of the court must
2 be used to fund the cost of the salary and benefits of any district judge added by
3 Assembly Bill No. 64 of this session for the period from January 1, 2011, through
4 June 30, 2011, and this money is hereby authorized for expenditure.

5 **Sec. 7.** In a county in which a district judge is added by Assembly Bill No.
6 64 of this session, the county treasurer is hereby required to, on or before the first
7 Monday in January 2011, remit, from the special account administered and
8 maintained pursuant to section 2 of this act, an amount equal to \$104,104 to the
9 State Controller for credit to the District Judges' Salary Account of the Supreme
10 Court for each judge added in that county.

11 **Sec. 8.** 1. This section and sections 1 to 5, inclusive, of this act become
12 effective on July 1, 2009.

13 2. Sections 6 and 7 of this act become effective on July 1, 2009, if, and only
14 if, Assembly Bill No. 64 of this session is enacted by the Legislature and becomes
15 effective.