

ASSEMBLY BILL NO. 264—ASSEMBLYWOMAN KIRKPATRICK

MARCH 11, 2011

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to constables.
(BDR 20-1097)

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 constables; revising provisions relating to the abolition of the office of constable for a township in certain counties; revising provisions relating to the collection of fees by a constable; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, a constable is responsible for performing certain duties
2 within a township, including serving as a peace officer and serving and executing
3 certain process, writs and warrants. (NRS 258.070) **Section 1** of this bill provides
4 that the abolition of the office of constable for a township in a county whose
5 population is 400,000 or more (currently Clark County) does not become effective
6 until the completion of the term of office of the constable who holds the office at
7 the time of the abolition. **Section 2** of this bill revises the amount that a constable
8 may receive for collecting all sums on an execution or writ to mirror the
9 jurisdictional limits of the justice courts. **Section 2** also allows a constable to
10 receive any money to which the constable would be entitled under an interlocal
11 agreement. **Section 3** of this bill provides that a constable is liable to indictment
12 and conviction for taking greater fees than allowed by law only if such a taking is
13 done willfully and knowingly.

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

1 **Section 1.** NRS 258.010 is hereby amended to read as follows:
2 258.010 1. Except as otherwise provided in subsections 2
3 and 3:



(a) Constables must be elected by the qualified electors of their respective townships.

(b) The constables of the several townships of the State must be chosen at the general election of 1966, and shall enter upon the duties of their offices on the first Monday of January next succeeding their election, and hold their offices for the term of 4 years thereafter, until their successors are elected and qualified.

(c) Constables must receive certificates of election from the boards of county commissioners of their respective counties.

2. In a county which includes only one township, the board of county commissioners may, by resolution, appoint the sheriff ex officio constable to serve without additional compensation. The resolution must not become effective until the completion of the term of office for which a constable may have been elected.

3. In a county whose population:

(a) Is less than 400,000, if the board of county commissioners determines that the office of constable is not necessary in one or more townships within the county, it may, by ordinance, abolish the office of constable in those townships.

(b) Is 400,000 or more, if the board of county commissioners determines that the office of constable is not necessary in one or more townships within the county, it may, by ordinance, abolish the office in those townships, but the abolition does not become effective as to a particular township until the *completion of the term of office for which the constable* ~~incumbent on May 28, 1979, does not seek, or is defeated for, reelection.~~ *who holds the office at the time of the abolition was elected.*

➔ For a township in which the office of constable has been abolished, the board of county commissioners may, by resolution, appoint the sheriff ex officio constable to serve without additional compensation.

Sec. 2. NRS 258.125 is hereby amended to read as follows:

258.125 1. Constables are entitled to the following fees for their services:

For serving a summons or other process by which a suit is commenced in civil cases	\$17
For summoning a jury before a justice of the peace	7
For taking a bond or undertaking	5
For serving an attachment against the property of a defendant.....	9
For serving subpoenas, for each witness.....	15
For a copy of any writ, process or order or other paper, when demanded or required by law, per folio	3



1	For drawing and executing every constable's deed, to	
2	be paid by the grantee, who must also pay for the	
3	acknowledgment thereof.....	\$20
4	For each certificate of sale of real property under	
5	execution.....	5
6	For levying any writ of execution or writ of	
7	garnishment, or executing an order of arrest in	
8	civil cases, or order for delivery of personal	
9	property, with traveling fees as for summons.....	9
10	For serving one notice required by law before the	
11	commencement of a proceeding for any type of	
12	eviction.....	26
13	For serving not fewer than 2 nor more than 10 such	
14	notices to the same location, each notice	20
15	For serving not fewer than 11 nor more than 24 such	
16	notices to the same location, each notice	17
17	For serving 25 or more such notices to the same	
18	location, each notice.....	15
19	For mileage in serving such a notice, for each mile	
20	necessarily and actually traveled in going only	2
21	But if two or more notices are served at the same	
22	general location during the same period,	
23	mileage may only be charged for the service	
24	of one notice.	
25	For each service in a summary eviction, except	
26	service of any notice required by law before	
27	commencement of the proceeding, and for	
28	serving notice of and executing a writ of	
29	restitution	21
30	For making and posting notices, and advertising	
31	property for sale on execution, not to include the	
32	cost of publication in a newspaper.....	9
33	For each warrant lawfully executed	48
34	For mileage in serving summons, attachment,	
35	execution, order, venire, subpoena, notice,	
36	summary eviction, writ of restitution or other	
37	process in civil suits, for each mile necessarily	
38	and actually traveled, in going only	2
39	But when two or more persons are served in the	
40	same suit, mileage may only be charged for	
41	the most distant, if they live in the same	
42	direction.	



For mileage in making a diligent but unsuccessful effort to serve a summons, attachment, execution, order, venire, subpoena or other process in civil suits, for each mile necessarily and actually traveled, in going only\$2
But mileage may not exceed \$20 for any unsuccessful effort to serve such process.

2. A constable is also entitled to receive:

(a) For receiving and taking care of property on execution, attachment or order, the constable's actual necessary expenses, to be allowed by the court which issued the writ or order, upon the affidavit of the constable that the charges are correct and the expenses necessarily incurred.

(b) For collecting all sums on execution or writ, to be charged against the defendant, on the ~~{first \$3,500,}~~ *amount that does not exceed the maximum amount for which a justice court would have jurisdiction pursuant to NRS 4.370*, 2 percent thereof, and on all amounts over that sum, one-half of 1 percent.

(c) For service in criminal cases, except for execution of warrants, the same fees as are allowed sheriffs for like services, to be allowed, audited and paid as are other claims against the county.

(d) For removing or causing the removal of, pursuant to NRS 487.230, a vehicle that has been abandoned on public property, \$100.

(e) For exercising any power, privilege or authority or performing any service, activity or undertaking pursuant to an agreement as authorized by NRS 277.080 to 277.180, inclusive, the amount set forth in such an agreement.

3. Deputy sheriffs acting as constables are not entitled to retain for their own use any fees collected by them, but the fees must be paid into the county treasury on or before the fifth working day of the month next succeeding the month in which the fees were collected.

4. Constables shall, on or before the fifth working day of each month, account for and pay to the county treasurer all fees collected during the preceding month, except fees which may be retained as compensation.

Sec. 3. NRS 258.210 is hereby amended to read as follows:

258.210 If any constable shall *willfully and knowingly* take more or greater fees than are allowed by law, the constable shall be liable to indictment, and on conviction shall be removed from office and fined in any sum not exceeding \$1,000.



* A B 2 6 4 *

1 **Sec. 4.** This act becomes effective on July 1, 2011.

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