

Amendment No. 445

Senate Amendment to Senate Bill No. 182 (BDR 20-607)

Proposed by: Senate Committee on Government Affairs**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of S.B. 182 (§§ 1, 2).

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) variations of *green bold underlining* is language proposed to be added 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 proposed to be retained in this amendment.

VG/NCA



Date: 4/20/2017

S.B. No. 182—Revises certain fees charged by sheriffs and constables.

(BDR 20-607)



SENATE BILL NO. 182—SENATOR PARKS (BY REQUEST)

PREFILED FEBRUARY 13, 2017

Referred to Committee on Government Affairs

SUMMARY—Revises ~~fees charged by~~ **provisions governing** sheriffs, ~~and~~ constables, ~~and~~ **and deputy constables.** (BDR 20-607)

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 law enforcement agencies; revising provisions governing the fees charged by a sheriff or constable; **prohibiting a deputy constable from being a bail agent, bail enforcement agent or bail solicitor;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for a summary eviction procedure when the tenant of any dwelling, apartment, mobile home, recreational vehicle or commercial premises with periodic rent due by the month or shorter period defaults in the payment of rent. Existing law authorizes a sheriff or constable to serve certain notices during a summary eviction. (NRS 40.253) Additionally, existing law authorizes a sheriff or a constable to charge and collect certain fees for serving notices required by law, before the commencement of a proceeding for any type of eviction. Further, existing law provides that a constable is entitled to a \$21 fee for each service in a summary eviction, except service of any notice required by law before the commencement of the proceeding, and for serving notice of and executing a writ of restitution. (NRS 248.275, 258.125) **Section 1** of this bill authorizes a sheriff to charge and collect the same \$21 fee that a constable is entitled to collect for each service in a summary eviction, except service of any notice required by law before commencement of the proceeding, and for serving notice of and executing a writ of restitution.

Existing law requires a sheriff or constable to mail a notice of a writ of execution before levying on the property of a judgment debtor. (NRS 21.075, 21.076, 21.111) Existing law also authorizes a sheriff to charge and collect a \$2 fee for mailing a notice of a writ of execution. (NRS 248.275) **Section 2** of this bill entitles a constable to collect the same \$2 fee that a sheriff is authorized to collect for mailing such a notice.

Under existing law, jailers, police officers, justices of the peace, municipal judges, sheriffs, deputy sheriffs and constables are not authorized to be bail agents, bail enforcement agents or bail solicitors. Existing law prohibits such persons from receiving any benefits, directly or indirectly, from the execution of any bail bond. (NRS 697.340) Section 2.5 of this bill adds deputy constables to the list of persons who are not authorized to be bail agents, bail enforcement agents or bail solicitors and prohibits deputy constables from receiving any benefits, directly or indirectly, from the execution of any bail bond.

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

Section 1. NRS 248.275 is hereby amended to read as follows:
248.275 1. The sheriff of each county in this State may charge and collect
the following fees:

For serving a summons or complaint, or any other process, by which an action or proceeding is commenced, except as a writ of habeas corpus, on every defendant.....	\$17
For traveling and making such service, per mile in going only, to be computed in all cases the distance actually traveled, for each mile.....	2
If any two or more papers are required to be served in the same suit at the same time, where parties live in the same direction, one mileage only may be charged.	
For taking a bond or undertaking in any case in which the sheriff is authorized to take a bond or undertaking.....	5
For a copy of any writ, process or other paper, if demanded or required by law, for each page.....	3
For serving every rule or order	15
For serving one notice required by law before the commencement of a proceeding for any type of eviction	26
For serving not fewer than 2 nor more than 10 such notices to the same location, each notice	20
For serving not fewer than 11 nor more than 24 such notices to the same location, each notice	17
For serving 25 or more such notices to the same location, each notice	15
For mileage in serving such a notice, for each mile necessarily and actually traveled in going only.....	2
But if two or more notices are served at the same general location during the same period, mileage may only be charged for the service of one notice.	
<i>For each service in a summary eviction, except service of any notice required by law before the commencement of the proceeding, and for serving notice of and executing a writ of restitution.....</i>	<i>21</i>
For serving a subpoena, for each witness summoned	15
For traveling, per mile in serving subpoenas, or a venire, in going only, for each mile.....	2
When two or more witnesses or jurors live in the same direction, traveling fees must be charged only for the most distant.	
For serving an attachment on property, or levying an execution, or executing an order of arrest or order for the delivery of personal property, together with traveling fees, as in cases of summons	15
For making and posting notices and advertising for sale, on execution or any judgment or order of sale, not to include the cost of publication.....	15
For issuing each certificate of sale of property on execution or order of sale, and for recording the original certificate with the county	

recorder, which must be collected from the party receiving the certificate.....	5
For drawing and executing every sheriff's deed, to be paid by the grantee, who shall in addition pay for the acknowledgment thereof.....	20
For serving a writ of possession or restitution, putting any person into possession entitled thereto.....	21
For traveling in the service of any process, not otherwise provided in this section, for each mile necessarily traveled, for going only, for each mile.....	2
For mailing a notice of a writ of execution	2

➤ The sheriff may charge and collect \$2 per mile traveled, for going only, on all papers not served, where reasonable effort has been made to effect service, but not to exceed \$20.

2. The sheriff may also charge and collect:

(a) For commissions for receiving and paying over money on execution or process, where lands or personal property have been levied on, advertised or sold, on the first \$500, 4 percent; on any sum in excess of \$500, and not exceeding \$1,000, 2 percent; on all sums above that amount, 1 percent.

(b) For commissions for receiving and paying over money on executions without levy, or where the lands or goods levied on are not sold, on the first \$3,500, 2 percent, and on all amounts over that sum, one-half of 1 percent.

(c) For service of any process in a criminal case, or of a writ of habeas corpus, the same mileage as in civil cases, to be allowed, audited and paid as are other claims against the county.

(d) For all services in justice courts, the same fees as are allowed in subsection 1 and paragraphs (a), (b) and (c) of this subsection.

3. The sheriff is also entitled to further compensation for his or her trouble and expense in taking possession of property under attachment, execution or other process and of preserving the property, as the court from which the writ or order may issue certifies to be just and reasonable.

4. In service of a subpoena or a venire in criminal cases, the sheriff is entitled to receive mileage for the most distant only, where witnesses and jurors live in the same direction.

5. The fees allowed for the levy of an execution, for advertising and for making and collecting money on an execution or order of sale, must be collected from the defendants, by virtue of the execution or order of sale, in the same manner as the execution is directed to be made.

6. Except as otherwise provided by an ordinance adopted pursuant to the provisions of NRS 244.207, all fees collected by a sheriff must be paid into the county treasury of his or her county on or before the fifth working day of the month next succeeding the month in which the fees are collected.

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.....	15
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
For drawing and executing every constable's deed, to be paid by the grantee, who must also pay for the acknowledgment thereof	20
For each certificate of sale of real property under execution	5
For levying any writ of execution or writ of garnishment, or executing an order of arrest in civil cases, or order for delivery of personal property, with traveling fees as for summons	15
For serving one notice required by law before the commencement of a proceeding for any type of eviction	26
For serving not fewer than 2 nor more than 10 such notices to the same location, each notice	20
For serving not fewer than 11 nor more than 24 such notices to the same location, each notice	17
For serving 25 or more such notices to the same location, each notice	15
Except as otherwise provided in subsection 3, for mileage in serving such a notice, for each mile necessarily and actually traveled in going only	2
But if two or more notices are served at the same general location during the same period, mileage may only be charged for the service of one notice.	
For each service in a summary eviction, except service of any notice required by law before commencement of the proceeding, and for serving notice of and executing a writ of restitution	21
For making and posting notices, and advertising property for sale on execution, not to include the cost of publication in a newspaper	15
For each warrant lawfully executed, unless a higher amount is established by the board of county commissioners	48
<i>For mailing a notice of a writ of execution</i>	<i>2</i>
Except as otherwise provided in subsection 3, for mileage in serving summons, attachment, execution, order, venire, subpoena, notice, summary eviction, writ of restitution or other process in civil suits, for each mile necessarily and actually traveled, in going only	2
But when two or more persons are served in the same suit, mileage may only be charged for the most distant, if they live in the same direction.	
Except as otherwise provided in subsection 3, 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, and for executing an order of arrest in civil cases, the constable's actual necessary expenses, to be allowed by the court which issued the writ or order, upon the

1 affidavit of the constable that the charges are correct and the expenses necessarily
2 incurred.

3 (b) For collecting all sums on execution or writ, to be charged against the
4 defendant, on the first \$3,500, 2 percent thereof, and on all amounts over that sum,
5 one-half of 1 percent.

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

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

10 (e) For providing any other service authorized by law for which no fee is
11 established by this chapter, the fee provided for by ordinance by the board of
12 county commissioners.

13 3. For each service for which a constable is otherwise entitled pursuant to
14 subsection 1 to a fee based on the mileage necessarily and actually traveled in
15 performing the service, a board of county commissioners may provide by ordinance
16 for the constable to be entitled, at the option of the person paying the fee, to a flat
17 fee for the travel costs of that service.

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

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

25 **Sec. 2.5. NRS 697.340 is hereby amended to read as follows:**

26 697.340 1. A bail agent, general agent or bail solicitor shall not:

27 (a) Suggest or advise the employment of or name for employment any
28 particular attorney to represent his or her principal.

29 (b) Solicit business in or about any place where prisoners are confined or in or
30 about any court.

31 (c) Pay a fee or rebate or give or promise anything of value to any person in
32 order to secure a settlement, compromise, remission or reduction of the amount of
33 any undertaking or bail bond.

34 (d) Pay a fee or rebate or give anything of value to an attorney in bail bond
35 matters, except for legal services actually rendered.

36 (e) Pay a fee or rebate or give or promise anything of value to the principal or
37 anyone in his or her behalf.

38 (f) Participate in the capacity of an attorney at a trial or hearing of a person on
39 whose bond the bail agent, general agent or bail solicitor is surety, except for the
40 purposes of surrendering the defendant, making motions to set aside orders of bail
41 forfeitures and motions to exonerate bails and protecting his or her financial interest
42 in such a bond.

43 2. The following persons may not be bail agents, bail enforcement agents or
44 bail solicitors and shall not, directly or indirectly, receive any benefits from the
45 execution of any bail bond:

46 (a) Jailers;

47 (b) Police officers;

48 (c) Justices of the peace;

49 (d) Municipal judges;

50 (e) Sheriffs, deputy sheriffs, ~~and~~ constables, ~~and~~ **and deputy constables;**

51 (f) Any person having the power to arrest or having anything to do with the
52 control of federal, state, county or municipal prisoners; and

1 (g) Trustees or prisoners incarcerated in any jail, prison or any other place used
2 for the incarceration of persons.

3 3. A bail agent shall not sign or countersign in blank any bond, or give the
4 power of attorney to, or otherwise authorize, anyone to countersign the name of the
5 bail agent to bonds unless the person so authorized is a licensed agent directly
6 employed by the agent giving the power of attorney.

7 4. A bail agent, bail enforcement agent, bail solicitor or general agent shall
8 not advertise or hold himself or herself out to be a surety insurance company.

9 **Sec. 3.** This act becomes effective on July 1, 2017.