

Amendment No. 558

Senate Amendment to Senate Bill No. 462	(BDR 20-754)
Proposed by: Senate Committee on Government Affairs	
Amendment Box: Replaces Amendment No. 359.	
Amends: Summary: No 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. 462 (§ 3).

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.

ERS/HAC



Date: 4/19/2019

S.B. No. 462—Revises provisions relating to constables. (BDR 20-754)



SENATE BILL NO. 462—COMMITTEE ON GOVERNMENT AFFAIRS

MARCH 25, 2019

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to constables. (BDR 20-754)

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 constables; defining “enterprise fund”; revising certain requirements for constables in certain townships to become certified as a category I or category II peace officer; revising certain provisions to fill a vacancy in the office of constable; providing the ~~appointment and~~ compensation of ~~the~~ certain deputy constables is subject to the approval of the board of county commissioners; prohibiting certain staff of a constable from carrying or possessing a firearm; requiring a court to collect and forward certain fees related to improper vehicle registration to a constable; revising certain provisions relating to fees a constable is entitled to receive; designating the office of constable as nonpartisan; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires each constable and deputy constable to be certified as a category II peace officer in a township whose population: (1) is 100,000 or more, if the township is in a county whose population is 700,000 or more (currently Clark County); and (2) is 250,000 or more, if the township is in a county whose population is less than 700,000 (currently all counties other than Clark County). (NRS 258.007, 258.060) Sections ~~1.5~~ 1.5 and 2 of this bill instead require each constable to be certified as a category I or category II peace officer: (1) in a township whose population is 15,000 or more; or (2) a township that has within its boundaries a city whose population is 15,000 or more. Section 1.5 also requires a candidate for constable in a township whose population is 100,000 or more to be certified as a category I or category II peace officer before filing a declaration of candidacy for the office. Section 1.5 further provides that a constable forfeits his or her office if he or she fails to obtain or maintain the required certification as a category I or category II peace officer.

Existing law requires the board of county commissioners to appoint a person to fill a vacancy in the office of constable of any township, except for a township that the board has determined does not require an office of constable. (NRS 258.030) Section 1.7 of this bill requires the board of county commissioners to fill a vacancy not later than 60 days after the occurrence of the vacancy.

Existing law authorizes all constables to appoint deputy constables and are responsible for the compensation of such deputy constables. (NRS 258.060) Section 2 provides that if the ~~appointment and compensation of~~ constable of an office established as an enterprise fund

appoints a deputy constable ~~(is subject to the approval of)~~, the compensation of the deputy constable must be approved by the board of county commissioners.

Existing law prohibits a person employed as clerical or operational staff of a constable from possessing or carrying a concealed firearm. (NRS 258.065) Section 2.3 of this bill prohibits a person employed as clerical or operational staff of a constable from possessing or carrying any firearm, including a concealed firearm.

Existing law authorizes a constable to issue a citation to certain owners or drivers whose vehicle is not properly registered and collect a fee from such a person. (NRS 258.070) Section 2.7 of this bill requires a court which imposes punishment upon the person to collect the fee and forward it to the constable who issued the citation.

Existing law establishes that a constable is entitled to receive certain fees for serving a summons or other process in a civil case, executing an order of arrest in a civil case and for collecting sums on execution or writ: (1) 2 percent of the first \$3,500; and (2) one-half of 1 percent on all amounts over the first \$3,500. A constable is also entitled to receive his or her actual expenses for taking care of property under certain circumstances and for executing an order of arrest in civil cases. (NRS 258.125) Section 3 of this bill expands the authority of a constable to receive fees for serving a summons or executing an order in a civil case and increases the amount that a constable is entitled to receive for collecting sums on execution or writ on amounts over the first \$3,500 to 1 percent. Section 3 provides that a constable is entitled to receive compensation for his or her trouble and expenses. Section 3 further requires a constable of an office established as an enterprise fund to account for and forward every 5 business days any fees received within the preceding period.

Existing law designates certain offices as nonpartisan. (NRS 293.195) Section 4 of this bill includes the office of constable in those offices which are designated nonpartisan. Section 5 of this bill provides that this designation does not apply to a constable who is in office on October 1, 2019, unless he or she is elected or appointed to a term of office on or after October 1, 2019.

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

Section 1. Chapter 258 of NRS is hereby amended by adding thereto a new section to read as follows:

"Enterprise fund" has the meaning ascribed to it in NRS 354.517.

Sec. 1.3. NRS 258.001 is hereby amended to read as follows:

258.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 258.002, 258.003 and 258.004 and section 1 of this act have the meanings ascribed to them in those sections.

~~{Section 1.}~~ Sec. 1.5. NRS 258.007 is hereby amended to read as follows:

258.007 1. ~~{Each}~~ Except as otherwise provided in subsection 2, each constable of a township whose population is ~~{100,000}~~ 15,000 or more ~~{and which is located in a county whose population is 700,000 or more, and each constable of}~~ or a township that has within its boundaries a city whose population is ~~{250,000}~~ 15,000 or more ~~{and which is located in a county whose population is less than 700,000.}~~ shall become certified by the Peace Officers' Standards and Training Commission as a category I or category II peace officer within 1 year after the date on which the constable commences his or her term of office or appointment unless the Commission, for good cause shown, grants in writing an extension of time, which must not exceed 6 months.

2. ~~{If a constable does not comply with the provisions of subsection 1, the}~~ Any person who is a candidate for the office of constable in a township whose population is 100,000 or more must be certified by the Peace Officers' Standards and Training Commission as a category I or category II peace officer before filing a declaration of candidacy for the office. A person who does not comply

with the provisions of this subsection is not eligible to be a candidate for the office of constable.

3. A constable forfeits his or her office and a vacancy is created which must be filled in accordance with NRS 258.030 ~~if the constable:~~

(a) Does not become certified by the Peace Officers' Standards and Training Commission as required pursuant to subsection 1; or

(b) Does not maintain the certification by the Peace Officers' Standards and Training Commission required pursuant to subsections 1 or 2 during his or her term of office.

Sec. 1.7. NRS 258.030 is hereby amended to read as follows:

258.030 Except for those townships that the boards of county commissioners have determined do not require an office of constable, if any vacancy exists or occurs in the office of constable in any township ~~if the~~:

1. The clerk of the board of commissioners shall certify the vacancy to the Secretary of State not later than 10 days after the vacancy occurs; and

2. The board of county commissioners shall appoint a person to fill the vacancy pursuant to NRS 245.170 ~~if~~ not later than 60 days after the vacancy occurs.

Sec. 2. NRS 258.060 is hereby amended to read as follows:

258.060 1. All constables may appoint deputies, ~~subject to the approval of the board of county commissioners,~~ who are authorized to transact all official business pertaining to the office to the same extent as their principals. A person must not be appointed as a deputy constable unless the person has been a resident of the State of Nevada for at least 6 months before the date of the appointment. A person who is appointed as a deputy constable in a township whose population is ~~100,000~~ 15,000 or more ~~and which is located in a county whose population is 700,000 or more or a deputy constable of~~ or a township that has within its boundaries a city whose population is ~~250,000~~ 15,000 or more ~~and which is located in a county whose population is less than 700,000~~ may not commence employment as a deputy constable until the person is certified by the Peace Officers' Standards and Training Commission as a category I or category II peace officer. The appointment of a deputy constable must not be construed to confer upon that deputy policymaking authority for the office of the county constable or the county by which the deputy constable is employed.

2. Constables are responsible for the compensation of their deputies ~~subject to the approval of the board of county commissioners,~~ and are responsible on their official bonds for all official malfeasance or nonfeasance of the same. Bonds for the faithful performance of their official duties may be required of the deputies by the constables.

3. If a constable of an office established by the board of county commissioners as an enterprise fund appoints a deputy, the compensation of the deputy must be approved by the board of county commissioners.

4. All appointments of deputies under the provisions of this section must be in writing and must, together with the oath of office of the deputies, be filed and recorded within 30 days after the appointment in a book provided for that purpose in the office of the recorder of the county within which the constable legally holds and exercises his or her office. Revocations of such appointments must also be filed and recorded as provided in this section within 30 days after the revocation of the appointment. From the time of the filing of the appointments or revocations therein, persons shall be deemed to have notice of the same.

Sec. 2.3. NRS 258.065 is hereby amended to read as follows:

258.065 1. The constable of a township may, subject to the approval of the board of county commissioners, appoint such clerical and operational staff as the

work of the constable requires. The compensation of any person so appointed must be fixed by the board of county commissioners.

2. A person who is employed as clerical or operational staff of a constable:

(a) Does not have the powers of a peace officer; and
(b) May not possess a weapon or carry a ~~concealed~~ firearm, regardless of whether the person possesses a permit to carry a concealed firearm issued pursuant to NRS 202.3653 to 202.369, inclusive, while performing the duties of the office of the constable.

3. The board of county commissioners may appoint for the constable of a township a reasonable number of clerks. The compensation of any clerk so appointed must be fixed by the board of county commissioners.

4. A constable's clerk shall take the constitutional oath of office and give bond in the sum of \$2,000 for the faithful discharge of the duties of the office, and in the same manner as is or may be required of other officers of that township and county.

5. A constable's clerk shall do all clerical work in connection with keeping the records and files of the office, and shall perform such other duties in connection with the office as the constable shall prescribe.

Sec. 2.7. NRS 258.070 is hereby amended to read as follows:

258.070 1. Subject to the provisions of subsections 2 and 3, each constable shall:

(a) Be a peace officer.

(b) Execute the process, writs or warrants of courts of justice, judicial officers and coroners, when delivered to the constable for that purpose.

(c) Discharge such other duties as are or may be prescribed by law.

2. Subject to the provisions of subsection 3, a constable or deputy constable has the powers of a peace officer:

(a) For the discharge of duties as are or may be prescribed by law;

(b) For the purpose of arresting a person for a public offense committed or attempted in the presence of the constable or deputy constable, if the constable or deputy constable has reasonable cause to believe that the arrest is necessary to prevent harm to other persons or the escape of the person who committed or attempted the public offense; and

(c) In addition to the circumstances described in paragraphs (a) and (b):

(1) In an area within the limits of an incorporated city, for the purposes authorized by and with the consent of the chief of police of the city; and

(2) In an area that is not within the limits of an incorporated city, for the purposes authorized by and with the consent of the sheriff of the county.

3. The constable and each deputy constable of a township shall not carry a firearm in the performance of his or her duties unless:

(a) The constable has adopted a written policy on the use of deadly force by the constable and each deputy constable; and

(b) The constable and each deputy constable has received training regarding the policy.

4. A constable or deputy constable authorized to carry a firearm pursuant to subsection 3 must receive training approved by the Peace Officers' Standards and Training Commission in the use of firearms at least once every 6 months.

5. A constable or deputy constable who wears a uniform in the performance of his or her duties shall display prominently as part of that uniform a badge, nameplate or other uniform piece which clearly displays the name or an identification number of the constable or deputy constable.

6. Pursuant to the procedures and subject to the limitations set forth in chapters 482 and 484A to 484E, inclusive, of NRS, a constable may issue a citation

to an owner or driver, as appropriate, of a vehicle which is located in his or her township at the time the citation is issued and which is required to be registered in this State if the constable determines that the vehicle is not properly registered. Upon the imposition of punishment pursuant to NRS 482.385 on the person to whom the citation is issued, the constable is entitled to charge and collect a fee of \$100 from the person to whom the citation is issued, which ~~may~~ :

(a) Must be collected by a court that imposes punishment pursuant to NRS 482.385 on behalf of the constable who issued the citation and forwarded by the court to the constable; and

(b) May be retained by the constable as compensation.

7. If a sheriff or the sheriff's deputy in any county in this State arrests a person charged with a criminal offense or in the commission of an offense, the sheriff or the sheriff's deputy shall serve all process, whether mesne or final, and attend the court executing the order thereof in the prosecution of the person so arrested, whether in a justice court or a district court, to the conclusion, and whether the offense is an offense of which a justice of the peace has jurisdiction, or whether the proceeding is a preliminary examination or hearing. The sheriff or the sheriff's deputy shall collect the same fees and in the same manner therefor as the constable of the township in which the justice court is held would receive for the same service.

Sec. 3. 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 <u>any</u> 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, for order for delivery of personal property for <u>or any other order in a civil case, except an order of eviction,</u> 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

For mailing a notice of a writ of execution 2

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, compensation for the constable's ~~[actual necessary expenses,]~~ trouble and expense, 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, 2 percent thereof, and on all amounts over that sum, ~~[one half of]~~ 1 percent.

(c) For service in criminal cases, 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 providing any other service authorized by law for which no fee is established by this chapter, the fee provided for by ordinance by the board of county commissioners.

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

4. 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

1 on or before the fifth working day of the month next succeeding the month in which
2 the fees were collected.

3 5. ~~{Constables}~~ Except as otherwise provided in subsection 6, constables
4 shall, on or before the fifth working day of each month, account for and pay to the
5 county treasurer all fees collected during the preceding month, except fees which
6 may be retained as compensation.

7 6. Every 5 business days, constables in an office established by the board of
8 county commissioners as an enterprise fund shall account for and pay to the
9 county treasurer any fee collected during the preceding period.

10 **Sec. 4.** NRS 293.195 is hereby amended to read as follows:

11 293.195 1. Judicial offices, school offices, the office of county sheriff, the
12 Board of Regents of the University of Nevada, city and town officers, *the office of*
13 *constable*, the State Board of Education and members of boards of hospital trustees
14 of public hospitals are hereby designated nonpartisan offices.

15 2. No words designating the party affiliation of a candidate for nonpartisan
16 offices may be printed upon the ballot.

17 **Sec. 5.** The amendatory provisions of ~~{section}~~ sections 1.5 and 4 of this act
18 do not apply to a constable who is in office on October 1, 2019, unless the
19 constable files a declaration of candidacy or is elected or appointed to a term of
20 office on or after October 1, 2019, ~~{H}~~ , as applicable.