

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.

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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; 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 compensation of 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:**

1 Existing law requires each constable and deputy constable to be certified as a  
2 category II peace officer in a township whose population: (1) is 100,000 or more, if  
3 the township is in a county whose population is 700,000 or more (currently Clark  
4 County); and (2) is 250,000 or more, if the township is in a county whose  
5 population is less than 700,000 (currently all counties other than Clark County).  
6 (NRS 258.007, 258.060) **Sections 1.5 and 2** of this bill instead require each  
7 constable to be certified as a category I or category II peace officer and each deputy  
8 constable to be certified as a category I or category II peace officer: (1) in a  
9 township whose population is 15,000 or more; or (2) a township that has within its  
10 boundaries a city whose population is 15,000 or more. **Section 1.5** also requires a  
11 candidate for constable in a township whose population is 100,000 or more to be  
12 certified as a category I or category II peace officer before filing a declaration of  
13 candidacy for the office. **Section 1.5** further provides that a constable forfeits his or



14 her office if he or she fails to obtain or maintain the required certification as a  
15 category I or category II peace officer.

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

21 Existing law authorizes all constables to appoint deputy constables and are  
22 responsible for the compensation of such deputy constables. (NRS 258.060)  
23 **Section 2** provides that if the constable of an office established as an enterprise  
24 fund appoints a deputy constable, the compensation of the deputy constable must be  
25 approved by the board of county commissioners.

26 Existing law prohibits a person employed as clerical or operational staff of a  
27 constable from possessing or carrying a concealed firearm. (NRS 258.065) **Section**  
28 **2.3** of this bill prohibits a person employed as clerical or operational staff of a  
29 constable from possessing or carrying any firearm, including a concealed firearm.

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

35 Existing law establishes that a constable is entitled to receive certain fees for  
36 serving a summons or other process in a civil case, executing an order of arrest in a  
37 civil case and for collecting sums on execution or writ: (1) 2 percent of the first  
38 \$3,500; and (2) one-half of 1 percent on all amounts over the first \$3,500. A  
39 constable is also entitled to receive his or her actual expenses for taking care of  
40 property under certain circumstances and for executing an order of arrest in civil  
41 cases. (NRS 258.125) **Section 3** of this bill expands the authority of a constable to  
42 receive fees for serving a summons or executing an order in a civil case and  
43 increases the amount that a constable is entitled to receive for collecting sums on  
44 execution or writ on amounts over the first \$3,500 to 1 percent. **Section 3** provides  
45 that a constable is entitled to receive compensation for his or her trouble and  
46 expenses. **Section 3** further requires a constable of an office established as an  
47 enterprise fund to account for and forward every 5 business days any fees received  
48 within the preceding period.

49 Existing law designates certain offices as nonpartisan. (NRS 293.195) **Section**  
50 **4** of this bill includes the office of constable in those offices which are designated  
51 nonpartisan. **Section 5** of this bill provides that this designation does not apply to a  
52 constable who is in office on October 1, 2019, unless he or she is elected or  
53 appointed to a term of office on or after October 1, 2019.

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

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

3 *“Enterprise fund” has the meaning ascribed to it in*  
4 *NRS 354.517.*

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

6 258.001 As used in this chapter, unless the context otherwise  
7 requires, the words and terms defined in NRS 258.002, 258.003 and



1 258.004 *and section 1 of this act* have the meanings ascribed to  
2 them in those sections.

3 **Sec. 1.5.** NRS 258.007 is hereby amended to read as follows:

4 258.007 1. ~~Each~~ *Except as otherwise provided in*  
5 *subsection 2, each* constable of a township whose population is  
6 ~~[100,000]~~ *15,000* or more ~~[and which is located in a county whose~~  
7 ~~population is 700,000 or more, and each constable of]~~ *or* a township  
8 *that has within its boundaries a city* whose population is ~~[250,000]~~  
9 *15,000* or more ~~[and which is located in a county whose population~~  
10 ~~is less than 700,000.]~~ shall become certified by the Peace Officers'  
11 Standards and Training Commission as a category *I or category II*  
12 peace officer within 1 year after the date on which the constable  
13 commences his or her term of office or appointment unless the  
14 Commission, for good cause shown, grants in writing an extension  
15 of time, which must not exceed 6 months.

16 2. ~~[If a constable does not comply with the provisions of~~  
17 ~~subsection 1, the]~~ *Any person who is a candidate for the office of*  
18 *constable in a township whose population is 100,000 or more must*  
19 *be certified by the Peace Officers' Standards and Training*  
20 *Commission as a category I or category II peace officer before*  
21 *filing a declaration of candidacy for the office. A person who does*  
22 *not comply with the provisions of this subsection is not eligible to*  
23 *be a candidate for the office of constable.*

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

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

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

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

34 258.030 Except for those townships that the boards of county  
35 commissioners have determined do not require an office of  
36 constable, if any vacancy exists or occurs in the office of constable  
37 in any township ~~[, the]~~ :

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

41 2. *The board of county commissioners shall appoint a person*  
42 *to fill the vacancy pursuant to NRS 245.170 [ ] not later than 60*  
43 *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, 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 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:



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

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

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

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

18 **Sec. 2.7.** NRS 258.070 is hereby amended to read as follows:  
19 258.070 1. Subject to the provisions of subsections 2 and 3,  
20 each constable shall:

- 21 (a) Be a peace officer.
- 22 (b) Execute the process, writs or warrants of courts of justice,
- 23 judicial officers and coroners, when delivered to the constable for  
24 that purpose.

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

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

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

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

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

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

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



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

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

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

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

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

16 6. Pursuant to the procedures and subject to the limitations set  
17 forth in chapters 482 and 484A to 484E, inclusive, of NRS, a  
18 constable may issue a citation to an owner or driver, as appropriate,  
19 of a vehicle which is located in his or her township at the time the  
20 citation is issued and which is required to be registered in this State  
21 if the constable determines that the vehicle is not properly  
22 registered. Upon the imposition of punishment pursuant to NRS  
23 482.385 on the person to whom the citation is issued, the constable  
24 is entitled to charge and collect a fee of \$100 from the person to  
25 whom the citation is issued, which ~~may~~ :

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

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

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

42 **Sec. 3.** NRS 258.125 is hereby amended to read as follows:

43 258.125 1. Constables are entitled to the following fees for  
44 their services:



1	For serving a summons or <i>any</i> other process <del>by</del>	
2	<del>which a suit is commenced</del> in civil cases.....	\$17
3	For summoning a jury before a justice of the peace.....	7
4	For taking a bond or undertaking .....	5
5	For serving an attachment against the property of a	
6	defendant.....	15
7	For serving subpoenas, for each witness .....	15
8	For a copy of any writ, process or order or other	
9	paper, when demanded or required by law, per	
10	folio .....	3
11	For drawing and executing every constable's deed,	
12	to be paid by the grantee, who must also pay for	
13	the acknowledgment thereof .....	20
14	For each certificate of sale of real property under	
15	execution .....	5
16	For levying any writ of execution or writ of	
17	garnishment, or executing an order of arrest in	
18	civil cases, <del>for</del> order for delivery of personal	
19	property <del>by</del> <i>or any other order in a civil case,</i>	
20	<i>except an order of eviction,</i> with traveling fees	
21	as for summons.....	15
22	For serving one notice required by law before the	
23	commencement of a proceeding for any type of	
24	eviction.....	26
25	For serving not fewer than 2 nor more than 10 such	
26	notices to the same location, each notice .....	20
27	For serving not fewer than 11 nor more than 24	
28	such notices to the same location, each notice .....	17
29	For serving 25 or more such notices to the same	
30	location, each notice.....	15
31	Except as otherwise provided in subsection 3, for	
32	mileage in serving such a notice, for each mile	
33	necessarily and actually traveled in going only.....	2
34	But if two or more notices are served at the same	
35	general location during the same period,	
36	mileage may only be charged for the service	
37	of one notice.	
38	For each service in a summary eviction, except	
39	service of any notice required by law before	
40	commencement of the proceeding, and for	
41	serving notice of and executing a writ of	
42	restitution.....	21
43	For making and posting notices, and advertising	
44	property for sale on execution, not to include the	
45	cost of publication in a newspaper .....	15



1 For each warrant lawfully executed, unless a higher  
2 amount is established by the board of county  
3 commissioners..... \$48  
4 For mailing a notice of a writ of execution ..... 2  
5 Except as otherwise provided in subsection 3, for  
6 mileage in serving summons, attachment,  
7 execution, order, venire, subpoena, notice,  
8 summary eviction, writ of restitution or other  
9 process in civil suits, for each mile necessarily  
10 and actually traveled, in going only ..... 2  
11 But when two or more persons are served in the  
12 same suit, mileage may only be charged for  
13 the most distant, if they live in the same  
14 direction.  
15 Except as otherwise provided in subsection 3, for  
16 mileage in making a diligent but unsuccessful  
17 effort to serve a summons, attachment,  
18 execution, order, venire, subpoena or other  
19 process in civil suits, for each mile necessarily  
20 and actually traveled, in going only ..... 2  
21 But mileage may not exceed \$20 for any  
22 unsuccessful effort to serve such process.  
23

24 2. A constable is also entitled to receive:

25 (a) For receiving and taking care of property on execution,  
26 attachment or order, and for executing an order of arrest in civil  
27 cases, *compensation for* the constable's ~~actual—necessary~~  
28 ~~expenses.]~~ *trouble and expense*, to be allowed by the court which  
29 issued the writ or order, upon the affidavit of the constable that the  
30 charges are correct and the expenses necessarily incurred.

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

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

37 (d) For removing or causing the removal of, pursuant to NRS  
38 487.230, a vehicle that has been abandoned on public property,  
39 \$100.

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

43 3. For each service for which a constable is otherwise entitled  
44 pursuant to subsection 1 to a fee based on the mileage necessarily  
45 and actually traveled in performing the service, a board of county



1 commissioners may provide by ordinance for the constable to be  
2 entitled, at the option of the person paying the fee, to a flat fee for  
3 the travel costs of that service.

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

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

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

18 **Sec. 4.** NRS 293.195 is hereby amended to read as follows:  
19 293.195 1. Judicial offices, school offices, the office of  
20 county sheriff, the Board of Regents of the University of Nevada,  
21 city and town officers, *the office of constable*, the State Board of  
22 Education and members of boards of hospital trustees of public  
23 hospitals are hereby designated nonpartisan offices.

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

26 **Sec. 5.** The amendatory provisions of sections 1.5 and 4 of this  
27 act do not apply to a constable who is in office on October 1, 2019,  
28 unless the constable files a declaration of candidacy or is elected or  
29 appointed to a term of office on or after October 1, 2019, as  
30 applicable.







