

## LEGISLATIVE BILL 223

Approved by the Governor March 26, 1987

Introduced by Warner, 25; Nelson, 35; Chizek, 31

AN ACT relating to sheriffs and constables; to amend sections 33-117, 84-805, and 84-806, Reissue Revised Statutes of Nebraska, 1943; to change sheriffs' fees as prescribed; to provide for the distribution of certain fees; to provide for the service of a summons or writ by certain persons; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 33-117, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

33-117. (1) The several sheriffs shall charge and collect fees at the rates specified in this section. The rates shall be as follows: Serving a capias with commitment or bail bond and return, two dollars; serving a search warrant, two dollars for each person so arrested; serving a summons, subpoena in equity, order of attachment, order of replevin, writ order of injunction, scire facias, citation, notice of motion, other notice, order of the court, or other writ or mesne process and return thereof, one dollar ten dollars for the first defendant and fifty cents two dollars and fifty cents for each of the other defendants in the same case; making a certified copy of a summons, subpoena in equity, or order of attachment, fifty cents; serving subpoena for witness, each person served, fifty cents order of replevin, order of injunction, scire facias, citation, notice of motion, other notice, or other writ, five dollars; taking and filing a replevin bond or other indemnification to be furnished and approved by the sheriff, one dollar; making a copy of any process, bond, or paper other than herein provided for, fifty twenty-five cents per page; traveling expenses for each mile actually and necessarily traveled within or without their several counties in their official duties, three cents more per mile than the rate provided for county officers, and employees in section 23-1112, except that

the minimum fee shall be fifty cents when such the service is made within two miles one mile of the courthouse, and, as far as is expedient, all papers in the hands of the sheriff at any one time shall be served in one or more trips by the most direct route or routes and only one mileage fee shall be charged for a single trip, the total mileage cost to be computed as a unit for each trip and the combined mileage cost of each trip to be prorated among the persons or parties liable for the payment of same; levying a writ of execution and return thereof, two fifteen dollars; levying a writ of possession without the aid of the county, two dollars; levying a writ of possession with the aid of the county, four dollars; summoning the a grand jury, not including mileage to be paid by the county, ten dollars; summoning a petit jury, not including mileage to be paid by the county, twelve dollars; summoning a special jury, for each person impaneled, fifty cents; calling a jury for a trial of a case or cause, fifty cents; servng notice of motion; ether notice; or order of court; one dollar; executing a writ of restitution and return, two fifteen dollars; calling an inquest to appraise lands and tenements levied on by execution, one dollar; calling an inquest to appraise goods and chattels taken by an order of attachment or replevin, one dollar; advertisement of advertising a sale in a newspaper in addition to the price of printing, one dollar; advertising in writing for a sale of real or personal property, two five dollars; executing a writ of partition, four dollars; and making deeds for land sold on execution or order of sale, two five dollars. The ; committing prisoner to prison; one dollar; commission due on all money received and disbursed by him or her a sheriff on execution or order of sale, order of attachment decree, or on a sale of real or personal property shall be; For for each dollar, not exceeding four hundred dollars, six cents; for every dollar above four hundred dollars and not exceeding one thousand dollars, four cents; and for every dollar above one thousand dollars, two cents. ; PROVIDED; in all cases where no money is received or disbursed by him or her no percentage shall be allowed; for guarding prisoners when it is actually necessary; four dollars per day; to be paid by the county.

(2) The sheriff shall, on the first Tuesday in January, April, July, and October of each year, make a report to the county board showing (a) the different items of fees, except mileage, collected or earned, from whom, at what time, and for what service, (b) the total amount of such the fees collected or earned by such the

officer since the last report, and (c) the amount collected or earned for the current year. He or she shall pay all fees earned to the county treasurer, who shall credit same the fees to the general fund of the county.

(3) Any future adjustment made to the reimbursement rate provided in subsection (1) of this section shall be deemed to apply to all provisions of law which refer to this section for the computation of mileage.

(4) Commencing on and after January 1, 1988, all fees earned pursuant to this section, except fees for mileage, by any constable who is a salaried employee of the State of Nebraska shall be remitted to the clerk of the county court. The clerk of the county court shall pay the same to the General Fund.

Sec. 2. That section 84-805, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-805. A Except when otherwise provided specifically by law for substitute service by a deputy, a sheriff may appoint a special deputy an employee of his or her department to serve any summons or writ, by endorsement thereon substantially as follows: "I hereby appoint . . . . .; my special deputy; to serve the within writ;" which shall be dated and signed by the sheriff.

Sec. 3. That section 84-806, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-806. The special deputy; employee referred to in section 84-805; shall make return of the time and manner of serving such writ; under his or her oath. For ; and for making a false return he or she shall be guilty of perjury; and shall be punished accordingly.

Sec. 4. This act shall become operative on June 30, 1987.

Sec. 5. That original sections 33-117, 84-805, and 84-806, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 6. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.