

ASSEMBLY BILL

No. 680

Introduced by Assembly Member Hall

February 26, 2009

An act to amend Sections 26720.9, 26726, 26731, 26736, 26738, 26744.5, 26746, 26746.1 of, and to repeal Section 26744 of, the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 680, as introduced, Hall. Local government: sheriff's fees.

Existing law prescribes fees for serving, executing, and processing required court notices, writs, orders, and other services provided by sheriffs and marshals.

This bill would revise and increase these fees, as specified.

The bill would delete the fee charged for serving or executing a bench warrant arising from an order of appearance.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 26720.9 of the Government Code is
- 2 amended to read:
- 3 26720.9. Notwithstanding any other provision of law, the
- 4 amounts set forth in Sections 26721, 26721.1, 26725, 26728,
- 5 26734, 26742, and 26743 shall be ~~increased to thirty dollars (\$30)~~
- 6 ~~on January 1, 2001~~ *thirty-five dollars (\$35)*.
- 7 SEC. 2. Section 26726 of the Government Code is amended
- 8 to read:

1 26726. (a) The fee for keeping and caring for property under
2 a writ of attachment, execution, possession, or sale shall be ~~one~~
3 ~~hundred twenty dollars (\$120)~~ *one hundred forty dollars (\$140)*
4 when necessarily employed for any eight-hour period or any part
5 thereof. If an additional keeper or keepers are required during these
6 periods, the fee for the additional keeper or keepers shall be the
7 same as fixed, but, in no event shall any one keeper receive more
8 than ~~two hundred forty dollars (\$240)~~ *two hundred eighty dollars*
9 *(\$280)* during any 24-hour period when so employed.

10 (b) In addition to the fees provided by Section 26721, the fee
11 for maintaining custody of property under levy by the use of a
12 keeper is ~~thirty dollars (\$30)~~ *thirty-five dollars (\$35)* for each day
13 custody is maintained after the first day.

14 (c) Notwithstanding any other fee charged, a keeper shall receive
15 ~~forty dollars (\$40)~~ *fifty dollars (\$50)* when, pursuant to Section
16 26738, a levying officer prepares a not-found return.

17 SEC. 3. Section 26731 of the Government Code is amended
18 to read:

19 26731. ~~Ten dollars (\$10)~~ *Fifteen dollars (\$15)* of any fee
20 collected by the sheriff's civil division or marshal under Sections
21 26721, 26722, 26725, 26726, 26728, 26730, 26733.5, 26734,
22 26736, 26738, 26742, 26743, 26744, and 26750 of the Government
23 Code shall be deposited in a special fund in the county treasury.
24 A separate accounting of funds deposited shall be maintained for
25 each depositor, and funds deposited shall be for the exclusive use
26 of the sheriff's civil division or marshal.

27 Ninety-five percent of the moneys in the special fund shall be
28 expended to supplement the costs of the depositor for the
29 implementation, maintenance, and purchase of auxiliary equipment
30 and furnishings for automated systems or other nonautomated
31 operational equipment and furnishings deemed necessary by the
32 sheriff's civil division or marshal. Five percent of the moneys in
33 the special fund shall be used to supplement the expenses of the
34 sheriff's civil division or marshal in administering the funds.

35 SEC. 4. Section 26736 of the Government Code is amended
36 to read:

37 26736. The fee for cancellation of the service or execution of
38 any process or notice prior to its completion shall be ~~twenty-eight~~
39 ~~dollars (\$28)~~ *thirty-five dollars (\$35)*. The fee provided by this
40 section shall not be charged where a charge is made pursuant to

1 any other section of this article in attempting to serve or execute
2 the process or notice.

3 SEC. 5. Section 26738 of the Government Code is amended
4 to read:

5 26738. The fee for making a not found return on a summons,
6 affidavit and order, order for appearance, subpoena, writ of
7 attachment, writ of execution, writ of possession, order for delivery
8 of personal property, or other process or notice required to be
9 served, certifying that the person or property cannot be found at
10 the address specified is ~~thirty dollars (\$30)~~ *thirty-five dollars (\$35)*.

11 SEC. 6. Section 26744 of the Government Code is repealed.

12 ~~26744. The fee for serving or executing a bench warrant arising~~
13 ~~from an order of appearance issued under subparagraph (A) of~~
14 ~~paragraph (1) of subdivision (a) of Section 491.160 or subparagraph~~
15 ~~(A) of paragraph (1) of subdivision (a) of Section 708.170 of the~~
16 ~~Code of Civil Procedure is fifty dollars (\$50).~~

17 SEC. 7. Section 26744.5 of the Government Code is amended
18 to read:

19 26744.5. (a) The fees for processing a warrant issued pursuant
20 to Section 1993 of the Code of Civil Procedure shall be paid by
21 the moving party, as follows:

22 (1) ~~Thirty dollars (\$30)~~ *Thirty-five dollars (\$35)* to receive and
23 process the warrant, which shall include the issuance and mailing
24 of a notice advising the person to be arrested of the issuance of
25 the warrant and demanding that the person appear in court.

26 (2) ~~Twenty-eight dollars (\$28)~~ *Thirty-five dollars (\$35)* to
27 cancel the service of the warrant.

28 (3) ~~Sixty dollars (\$60)~~ *Seventy-five dollars (\$75)* if unable to
29 find the person at the address specified using due diligence.

30 (4) ~~Seventy-five dollars (\$75)~~ *Eighty-five dollars (\$85)* to arrest
31 the person, which shall include the arrest and release of the person
32 on a promise to appear pursuant to Section 1993.2 of the Code of
33 Civil Procedure.

34 (b) The in forma pauperis fee waiver provisions under Rules
35 3.50 to 3.63, inclusive, of the California Rules of Court shall apply
36 to the collection of fees under this section.

37 SEC. 8. Section 26746 of the Government Code is amended
38 to read:

39 26746. In addition to any other fees required by law, a
40 processing fee of ~~ten dollars (\$10)~~ *twelve dollars (\$12)* shall be

1 assessed for each disbursement of money collected under a writ
2 of attachment, execution, possession, or sale, but excluding any
3 action by the local child support agency for the establishment or
4 enforcement of a child support obligation. The fee shall be
5 collected from the judgment debtor in addition to, and in the same
6 manner as, the moneys collected under the writ. All proceeds of
7 this fee shall be deposited in a special fund in the county treasury.
8 A separate accounting of funds deposited shall be maintained for
9 each depositor, and funds deposited shall be for the exclusive use
10 of the depositor.

11 The special fund shall be expended to supplement the county's
12 cost for vehicle fleet replacement and equipment, maintenance,
13 and civil process operations.

14 A fee may not be charged if the only disbursement is the return
15 of the judgment creditor's deposit for costs.

16 SEC. 9. Section 26746.1 of the Government Code is amended
17 to read:

18 26746.1. A ~~fifteen-dollar (\$15)~~ *seventeen-dollar (\$17)* fee shall
19 be assessed by the sheriff or marshal for certification of correction
20 on each citation that requires inspection for proof of correction of
21 any violation pursuant to Section 40616 of the Vehicle Code.

22 All proceeds of the fee shall be deposited in a special fund in
23 the county treasury. A separate accounting of funds deposited shall
24 be maintained for each depositor, and funds deposited shall be for
25 the exclusive use of the sheriff's civil division or marshal.

26 Ninety-five percent of the moneys in the special fund shall be
27 expended to supplement the costs of the depositor for the
28 implementation, maintenance, and purchase of auxiliary equipment
29 and furnishings for automated systems or other nonautomated
30 operational equipment and furnishings deemed necessary by the
31 sheriff's civil division or marshal. Five percent of the moneys in
32 the special fund shall be used to supplement the expenses of the
33 sheriff's civil division or marshal in administering the funds.