

2018 Regular Session

HOUSE BILL NO. 315

BY REPRESENTATIVE CARPENTER

COURTS/COURT COSTS: Increases the fees for city marshals and constables for certain services

1 AN ACT

2 To amend and reenact R.S. 13:5807 and to repeal R.S. 13:5807.2, relative to fees and costs;
3 to provide relative to city marshal and constable services; to increase fees and costs;
4 to provide for the use of such fees and costs; to provide relative to effectiveness; and
5 to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 13:5807 is hereby amended and reenacted to read as follows:

8 §5807. Fees and costs

9 A. Constables and marshals, except in Orleans Parish and as provided by
10 R.S. 13:5807.1, 5807.3, 5807.4, and 5807.5, shall be entitled to the following fees
11 of office, and no more, in civil matters:

12 (1) For making service or attempted service and return of citation with or
13 without petition on each defendant, ~~ten~~ thirty dollars.

14 (2) For making service or attempted service and return of supplemental or
15 amended petition with or without accompanying citation, ~~ten~~ thirty dollars.

16 (3) For making service or attempted service of interrogatories and notice of
17 cross interrogatories, ~~ten~~ thirty dollars.

18 (4) For making service or attempted service and return of garnishment under
19 writ of fieri facias, ~~twenty-eight dollars and fifty cents~~ thirty dollars.

1 (5) For making service or attempted service and return of writ of attachment
2 on each witness, ~~nine dollars and fifty cents~~ thirty dollars.

3 (6) For executing writ of sequestration, provisional seizures, or distringas,
4 in each case, ~~twelve dollars and fifty cents~~ thirty dollars. For service of each notice
5 to defendant and return thereon in connection with execution of any of the writs
6 covered by this Paragraph, ~~ten~~ thirty dollars.

7 (7) For taking bond authorized by law, thirteen dollars and fifty cents.

8 (8) For making service or attempted service and return of notice of judgment,
9 ~~ten~~ thirty dollars.

10 (9) For making service or attempted service and return of citation and
11 petition of appeal and order, ~~ten~~ thirty dollars.

12 (10) For return of fieri facias, ~~ten~~ thirty dollars.

13 (11) For making service or attempted service and return of citations requiring
14 personal service, ~~eleven dollars and fifty cents~~ thirty dollars, ~~to-wit:~~ specifically rule
15 nisi, subpoena, subpoena duces tecum, judgment debtor.

16 (12) For keeping property when a keeper or guardian is required, the marshal
17 or constable shall be allowed the actual amount paid the keeper appointed by him,
18 but not to exceed sixty dollars for each eight hours of keeping; and in all cases in
19 which property under seizure is of a nature requiring the constant attention of the
20 marshal or constable, he may appoint one or more additional keepers for which
21 allowance shall be made on the basis set forth above.

22 (13) For collecting money for execution of order of seizure and sale, six
23 percent, with a minimum of twelve dollars and fifty cents on each execution of order
24 of seizure and sale.

25 (14) For collecting money for execution of a writ, without either seizure or
26 sale, six percent, with a minimum of twelve dollars and fifty cents on each execution
27 or order of writ.

28 (15) For any services rendered or duties performed by the marshals or
29 constables not otherwise herein specially provided for, they shall be entitled to a fee

1 or commission to be determined by agreement with the parties in interest or fixed by
2 the court by rule tried in a summary manner in term time or in vacation.

3 (16) For service and making return of any rule, order of court, or notice on
4 any party to a suit or other proceeding, or after judgment rendered, where return of
5 service is made by the constable or marshal, including service or notice of release of
6 seizure, and other than those herein otherwise provided for, ~~ten dollars and fifty cents~~
7 thirty dollars for each service; for service of a judgment debtor rule, a fee of ~~eleven~~
8 ~~dollars and fifty cents~~ thirty dollars.

9 (17) For service of subpoena on each witness and making return thereof, ~~ten~~
10 thirty dollars.

11 (18) For service of attachment on a witness or for service on any person for
12 contempt of court to be brought into court and for return thereon, ~~eleven dollars and~~
13 ~~fifty cents~~ thirty dollars.

14 (19) For service of citation and petition of appeal for each party on whom
15 service is directed to be made and for making return thereof, ~~ten~~ thirty dollars.

16 (20) For making seizure under writ of fieri facias, making and serving notice
17 of seizure on one party, and making a copy for recordation in the mortgage records
18 when necessary or required and for returns thereon, for all, fourteen dollars and fifty
19 cents. For service of each notice of seizure and return thereon in connection with
20 execution of writ of fieri facias, ten dollars.

21 (21) For executing writ of arrest and making return thereon, ~~eleven dollars~~
22 ~~and fifty cents~~ thirty dollars.

23 (22) For serving writ of injunction, certiorari, mandamus, prohibition, or
24 notice of demand and making return thereon, in each case ~~ten~~ thirty dollars.

25 (23) For executing writ of habeas corpus and making return thereon, to be
26 charged in civil cases only, ~~eleven dollars and fifty cents~~ thirty dollars.

27 (24) For serving notice of seizure and sale on one party and making a copy
28 for recordation in the mortgage records, when necessary or required, and for making

1 return for all, ~~fourteen dollars and fifty cents~~ thirty dollars. For service of each
2 additional notice of seizure and return, ~~ten~~ thirty dollars.

3 (25) For advertising sale under writ of fieri facias, seizure and sale, or other
4 order of court, the rates established by the newspaper.

5 (26) For preparing advertisement for newspapers, for each one hundred
6 words or part thereof, ~~eleven dollars and fifty cents~~ thirty dollars.

7 (27) For each deed of conveyance of immovable property, thirty-three
8 dollars and fifty cents, in addition to the cost of registering the deed in the
9 conveyance office and of recording it in the office of the clerk of the district court.

10 (28) For each proces verbal of the sale of movable or immovable property,
11 sixteen dollars and fifty cents.

12 (29)(a) For executing writ of possession and writ of ejectment, ~~ten~~ thirty
13 dollars.

14 (b)(i) For service of each notice to vacate on defendant or occupants, ~~ten~~
15 thirty dollars.

16 (ii) If the defendant or occupants do not vacate the premises named in the
17 writ upon service of notice to vacate and the marshal or constable is required to do
18 anything further to obtain possession, he shall be entitled to an additional fee of ~~ten~~
19 ~~dollars and fifty cents~~ thirty dollars.

20 (c) Nothing herein shall be construed to bar the marshals or constables from
21 charging and collecting for the cost of labor and other costs and expenses actually
22 paid or incurred by them in order to obtain possession of the premises described in
23 the writ.

24 (30)(a) In all cases where the marshals or constables have in their possession
25 for execution a writ of fieri facias, a writ of seizure and sale, or any conservatory or
26 other writ, under which property is or may be seized:

27 (i) When there has been an adjudication ~~which~~ that is not completed as a
28 result of instructions given by the plaintiff in writ or for any other reason.

1 (ii) When the plaintiff in writ receives cash or other consideration, or both,
2 pursuant to judgment rendered in suit in which the writ issued, without the necessity
3 of judicial sale.

4 (iii) When the suit in which the writ issued is discontinued by the plaintiff
5 in writ.

6 (iv) When, at the request of the plaintiff in writ, the writ is recalled or
7 dissolved or its further execution discontinued.

8 (v) When the parties in interest make an amicable settlement or compromise,
9 or enter into any other agreement, under the terms of which the writ is recalled or
10 dissolved or its further execution discontinued, the marshals or constables shall be
11 entitled to receive a fee or commission as in the case of a sale.

12 (b) The fee or commission provided for in this Paragraph shall be due and
13 payable under the circumstances above set forth even though there has only been a
14 constructive seizure or where property seized under any of the writs ~~hereinabove~~
15 enumerated in this Paragraph has been released on bond.

16 (c) In a case where there has been an amicable settlement by compromise or
17 otherwise but no judgment rendered, the fee or commission shall be due and payable
18 in solido by all parties to the compromise agreement or settlement who may be
19 proceeded against by the marshals or constables by rule to be tried in a summary
20 manner in term time or in vacation.

21 B. ~~The fees specified in Subsection A of this Section which are less than ten~~
22 ~~dollars shall not apply to the marshal of the Pineville City Court, who shall be~~
23 ~~entitled to a minimum fee of office of ten dollars for each service rendered in civil~~
24 ~~matters.~~ Sixty percent of the funds collected pursuant to Paragraph(A)(1) through
25 (A)(12) and Paragraphs (A)(15) through (A)(30) of this Section shall be used to
26 assist in funding the purchase or updating of necessary equipment and officer
27 training to carry out the efficient performance of all duties imposed by law on
28 constables and marshals. These funds shall be deposited into an equipment and
29 training fund which shall be subject to and included in the constables' and marshals'

1 annual audit. A copy of the audit shall be filed with the legislative auditor who shall
 2 make it available to the public.

3 Section 2. R.S. 13:5807.2 is hereby repealed in its entirety.

4 Section 3. In accordance with the provisions of R.S. 13:62, the increase in court
 5 costs or fees as provided for in this Act shall become effective if and when the Judicial
 6 Council provides a recommendation that such court costs or fees meet the applicable
 7 guidelines in its 2019 Report to the Louisiana Legislature.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 315 Reengrossed

2018 Regular Session

Carpenter

Abstract: Increases the fees for city constables and marshals for all matters that pertain to service or returns of all legal documents, execution of writs, newspaper advertisements, and executions of writs of possession or ejectment, and provides that 60% of these funds shall be used on equipment and training.

Present law provides a fee schedule for all city marshals and constables except for those serving in Orleans Parish and the cities of Natchitoches, Minden, Springhill, Franklin, Winnfield, Slidell, Bogalusa, Ruston, and Houma. Present law contains specific provisions applicable to those cities and Orleans Parish.

Proposed law increases the fee to \$30 for all matters that pertain to service or returns of all legal documents, execution of writs, newspaper advertisements, and executions of writs of possession or ejectment. Proposed law repeals the present law fee schedule applicable only to the city of Hammond.

Proposed law provides that 60% of the funds collected, except for funds collected for execution of an order of seizure and sale, execution of a writ, and certain other services or duties, shall be used for the purchase or updating of necessary equipment and officer training to carry out the efficient performance of the duties of constables and marshals. Further requires the money to be deposited into an equipment and training fund which shall be audited annually.

Proposed law is contingent upon the recommendation by the Judicial Council.

(Amends R.S. 13:5807; Repeals R.S. 13:5807.2)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Judiciary to the original bill:

1. Require 60% of the funds to be used for equipment purposes and require the equipment fund to be included in an annual audit.
2. Repeal the present law fee schedule applicable only to the city of Hammond.

The House Floor Amendments to the engrossed bill:

1. Require 60% of the collected funds to be used for equipment and officer training purposes. Further require the money to be placed in a equipment and training fund subjected to an annual audit.
2. Exclude the money collected for the execution of a writ or order of seizure and sale and the money collected for certain other services or duties from being deposited into the equipment and training fund.