

1 SENATE BILL 28

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016**

3 INTRODUCED BY

4 Gerald Ortiz y Pino and Miguel P. Garcia

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7  
8 FOR THE LAND GRANT COMMITTEE

9  
10 AN ACT

11 RELATING TO LEGAL SERVICES; ESTABLISHING A PROGRAM TO INCREASE  
12 LEGAL SERVICES FOR ACEQUIAS, LAND GRANTS-MERCEDES AND LOW-  
13 INCOME RESIDENTS OF COLONIAS; ESTABLISHING A WAIVER OF TUITION  
14 FOR SERVICE PROGRAM; CREATING A FUND; MAKING AN APPROPRIATION.

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be  
18 cited as the "Community Governance Attorney Act".

19 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the  
20 Community Governance Attorney Act:

21 A. "acequia" means a political subdivision  
22 organized pursuant to Chapter 73, Article 3 NMSA 1978;

23 B. "colonia" means a community as defined in the  
24 Colonias Infrastructure Act;

25 C. "commission" means the community governance

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1 attorney commission;

2 D. "community governance attorney" means an  
3 attorney with a legal practice that is focused on the  
4 requirements and challenges faced by small political  
5 subdivisions and unincorporated communities, including the  
6 promulgation of land and water use ordinances, contracting and  
7 the collection or payment of taxes and fees;

8 E. "course of study" means a law student's legal  
9 education, including clinical and internship programs and  
10 preparation courses for the state bar examination;

11 F. "department" means the higher education  
12 department;

13 G. "fund" means the community governance attorney  
14 and conditional tuition waiver fund;

15 H. "land grant-merced" means a political  
16 subdivision organized pursuant to Chapter 49, Article 1 or 4  
17 NMSA 1978;

18 I. "participant" means an individual who has  
19 applied to participate in, has been accepted into and has  
20 signed a contract agreeing to the terms of the program;

21 J. "program" means the community governance  
22 attorney and conditional tuition waiver program;

23 K. "secretary" means the secretary of higher  
24 education;

25 L. "university" means the university of New Mexico

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1 school of law; and

2 M. "waiver" means a loan to cover tuition, fees and  
3 a reasonable living stipend that is forgiven in whole or in  
4 part if the participant renders service as a community  
5 governance attorney.

6 SECTION 3. [NEW MATERIAL] COMMUNITY GOVERNANCE ATTORNEY  
7 AND CONDITIONAL TUITION WAIVER PROGRAM CREATED--  
8 ADMINISTRATION--RULEMAKING SELECTION PROCESS--REPAYMENT.--

9 A. The "community governance attorney and  
10 conditional tuition waiver program" is created and shall be  
11 administered by the department. The department shall:

12 (1) promulgate rules for implementing the  
13 program and for a reasonable living stipend in consultation  
14 with the university; provided that the maximum living stipend  
15 shall be based upon the availability of funds and information  
16 provided by the university regarding the current cost of  
17 attendance at the university;

18 (2) publicize the program to law students and  
19 to prospective law students;

20 (3) collect and manage repayment from students  
21 who do not meet their obligations under the program; and

22 (4) solicit and accept funds for the program,  
23 including grants and donations.

24 B. Participants shall enter the program in their  
25 final year of law school. The department shall select

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1 participants according to rules it promulgates and, in  
2 consultation with the commission, shall create a standard  
3 process for law students to apply to participate in the  
4 program.

5 C. The department shall award no more than two new  
6 waivers a year, in addition to renewing existing waivers for  
7 eligible participants, subject to the availability of funding.

8 D. Participation in the program shall be evidenced  
9 by a contract between the participant and the department. The  
10 contract shall provide for the payment of a participant's  
11 waiver and shall be conditioned upon the participant fulfilling  
12 the program obligations and meeting the university's standards  
13 for satisfactory academic progress. An applicant to the  
14 program shall sign the contract prior to being accepted into  
15 the program.

16 E. The contract shall include the following terms  
17 for repayment of the waiver:

18 (1) interest shall accrue upon termination of  
19 the participant's course of study at the following interest  
20 rates:

21 (a) eighteen percent per year if the  
22 participant completes a course of study and no portion of the  
23 principal and interest is forgiven pursuant to Subsection F of  
24 this section; and

25 (b) seven percent per year in all other

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1 cases; and

2 (2) the maximum period for repayment shall be  
3 ten years, commencing six months from the date the participant  
4 completes or discontinues the course of study.

5 F. The contract shall provide that the department  
6 forgive fifty percent of a waiver for each year that a  
7 participant is employed as a community governance attorney with  
8 a salary of not more than fifty thousand dollars (\$50,000) per  
9 year.

10 SECTION 4. [NEW MATERIAL] COMMISSION--DUTIES.--

11 A. The "community governance attorney commission"  
12 is created. The commission shall be composed of five members  
13 as follows:

14 (1) the secretary or the secretary's designee;

15 (2) the dean of the university or the dean's  
16 designee; and

17 (3) three members appointed by the governor;  
18 provided that one member shall be a member of an acequia, one  
19 member shall be a current or past member of the land grant  
20 council and one member shall be a current or past member of the  
21 colonias infrastructure board and a resident of a colonia.

22 B. Staff and meeting space for the commission shall  
23 be provided by the university. The commission shall elect a  
24 chair and such other officers as it deems appropriate and shall  
25 meet at the call of the chair. Members of the commission shall

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1 receive per diem and mileage pursuant to the Per Diem and  
2 Mileage Act and shall receive no other compensation.

3 C. The commission shall:

4 (1) make recommendations to the department on  
5 applicants for the program;

6 (2) advise the department on the adoption of  
7 rules to implement the provisions of the Community Governance  
8 Attorney Act;

9 (3) pursuant to the Procurement Code, solicit  
10 proposals for disbursement from the fund for legal services;

11 (4) enter into contracts for expenditure of  
12 the fund for the purpose of providing community governance  
13 attorney services for acequias, land grants-mercedes and low-  
14 income residents of colonias. The contracts shall be entered  
15 into with the university or with nonprofit organizations whose  
16 mission is to provide a range of free legal services to low-  
17 income New Mexicans. No contract shall provide funding in  
18 excess of one-half of a full-time community governance attorney  
19 position and shall be executed only with service providers that  
20 have secured sufficient matching nonstate funding to provide a  
21 full-time position; and

22 (5) adopt such rules as are necessary to carry  
23 out the provisions of this section.

24 D. The department, pursuant to rules of the  
25 commission, shall administer the contracts and programs

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1 provided for in this section.

2 SECTION 5. [NEW MATERIAL] FUND CREATED--DISBURSEMENT.--

3 A. The "community governance attorney and  
4 conditional tuition waiver fund" is created in the state  
5 treasury. The fund shall consist of money appropriated,  
6 donated or otherwise accruing to the fund. All payments for  
7 repayment of waivers and penalties shall be credited to the  
8 fund. Balances in the fund shall not revert to any other fund  
9 at the end of a fiscal year.

10 B. Expenditures from the fund shall only be used to  
11 make waivers to participants in the program, to pay contracts  
12 for community governance attorney services and to pay the  
13 administrative expenses associated with the program and  
14 collection activity on its behalf; provided that no more than  
15 five percent of the annual expenditures from the fund shall be  
16 for administrative costs. The department shall require an  
17 annual accounting from each organization receiving funds  
18 pursuant to this section.

19 C. All waiver loan payments shall be by warrant  
20 drawn by the secretary upon vouchers signed by the designated  
21 representative of the department. All disbursements from the  
22 fund for community governance attorney services shall be by  
23 warrant drawn by the secretary of finance and administration  
24 pursuant to vouchers signed by the secretary of higher  
25 education or the secretary's designee. Money in the fund is

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1 appropriated to the department for the purposes of carrying out  
2 the provisions of the Community Governance Attorney Act.

3 D. Money disbursed pursuant to this section shall  
4 not be used by a recipient to:

5 (1) support lobbying, as defined in the  
6 Lobbyist Regulation Act; or

7 (2) bring suit against the state.

8 SECTION 6. EFFECTIVE DATE.--The effective date of the  
9 provisions of this act is July 1, 2016.