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SENATE BILL 538

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

L. SKIP VERNON

AN ACT

RELATING TO LAW ENFORCEMENT; GIVING THE SECRETARY OF PUBLIC SAFETY THE AUTHORITY TO COMMISSION DEPARTMENT EMPLOYEES AS LAW ENFORCEMENT OFFICERS.

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

Section 1. Section 9-19-6 NMSA 1978 (being Laws 1987, Chapter 254, Section 6, as amended) is amended to read:

"9-19-6. SECRETARY--DUTIES AND GENERAL POWERS. --

A. The secretary is responsible to the governor for the operation of the department. It is his duty to manage all operations of the department and to administer and enforce the laws with which he or the department is charged.

B. To perform his duties, the secretary has every power expressly enumerated in the laws, whether granted to the secretary or the department or any division of the department,

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1 except where authority conferred upon any division is explicitly
2 exempted from the secretary's authority by statute. In
3 accordance with these provisions, the secretary shall:

4 (1) except as otherwise provided in the
5 Department of Public Safety Act, exercise general supervisory
6 and appointing authority over all department employees, subject
7 to any applicable personnel laws and regulations; provided that
8 the secretary shall not reduce positions for the seventy-sixth
9 fiscal year budgeted in the General Appropriation Act of 1987
10 except for cause, by attrition or by occurrence of a vacancy;

11 (2) delegate authority to subordinates as he
12 deems necessary and appropriate, clearly delineating such
13 delegated authority and the limitations thereto;

14 (3) organize the department into those
15 organizational units he deems will enable it to function most
16 efficiently, subject to any provisions of law requiring or
17 establishing specific organizational units;

18 (4) within the limitations of available
19 appropriations and applicable laws, employ and fix the
20 compensation of those persons necessary to discharge his duties;

21 (5) take administrative action by issuing
22 orders and instructions, not inconsistent with the law, to
23 assure implementation of and compliance with the provisions of
24 law with the administration or execution of which he is
25 responsible and to enforce those orders and instructions by

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1 appropriate administrative action [~~or actions~~] in the court;

2 (6) conduct research and studies that will
3 improve the operation of the department and examine other
4 entities and functions of state government related to public
5 safety for purposes of possible transfer to the department;

6 (7) provide courses of instruction and
7 practical training for employees of the department and other
8 persons involved in the administration of programs with the
9 objective of improving the operations and efficiency of
10 administration;

11 (8) prepare an annual budget of the department;

12 (9) provide cooperation, at the request of
13 heads of administratively attached agencies, in order to:

14 (a) minimize or eliminate duplication of
15 services and jurisdictional conflicts;

16 (b) coordinate activities and resolve
17 problems of mutual concern; and

18 (c) resolve by agreement the manner and
19 extent to which the department shall provide budgeting,
20 recordkeeping and related clerical assistance to
21 administratively attached agencies, if any;

22 (10) appoint, with the governor's consent, for
23 each division, a director. These appointed positions are exempt
24 from the provisions of the Personnel Act. Persons appointed to
25 these positions shall serve at the pleasure of the secretary;

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1 (11) appoint the director of the New Mexico law
2 enforcement academy, subject to the approval of the New Mexico
3 law enforcement academy board;

4 (12) give bond in the penal sum of twenty-five
5 thousand dollars (\$25,000) and require division directors to
6 each give bond in the penal sum of ten thousand dollars
7 (\$10,000), conditioned upon the faithful performance of duties
8 as provided in the Surety Bond Act, with the department paying
9 the cost of such bonds; and

10 (13) require performance bonds of such
11 employees and officers as he deems necessary as provided in the
12 Surety Bond Act, with the department paying the costs of such
13 bonds.

14 C. The secretary may apply for and receive, with the
15 governor's approval, in the name of the department, any public
16 or private funds, including but not limited to United States
17 government funds, available to the department to carry out its
18 programs, duties or services.

19 D. The secretary may commission employees as peace
20 officers when the employees' primary duties are law enforcement-
21 related and the employees are certified pursuant to the Law
22 Enforcement Training Act.

23 [~~D.~~] E. Where functions of departments overlap or a
24 function assigned to one department could better be performed by
25 another department, the secretary may recommend appropriate

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1 legislation to the next session of the legislature for its
2 approval.

3 ~~[E.]~~ E. The secretary may make and adopt such
4 reasonable and procedural rules and regulations as may be
5 necessary to carry out the duties of the department and its
6 divisions. No rule or regulation promulgated by the director of
7 any division in carrying out the functions and duties of the
8 division shall be effective until approved by the secretary
9 unless otherwise provided by statute. Unless otherwise provided
10 by statute, no regulation affecting any person or agency outside
11 the department shall be adopted, amended or repealed without a
12 public hearing on the proposed action before the secretary or a
13 hearing officer designated by him. The public hearing shall be
14 held in Santa Fe unless otherwise permitted by statute. Notice
15 of the subject matter of the regulation, the action proposed to
16 be taken, the time and place of the hearing, the manner in which
17 interested persons may present their views and the method by
18 which copies of the proposed regulation, proposed amendment or
19 repeal of an existing regulation may be obtained shall be
20 published once at least thirty days prior to the hearing date in
21 a newspaper of general circulation in the state and mailed at
22 least thirty days prior to the hearing date to all persons who
23 have made a written request for advance notice of hearing.

24 ~~[F.]~~ G. All rules and regulations shall be filed in
25 accordance with the State Rules Act. "

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Section 2. EFFECTIVE DATE. -- The effective date of the provisions of this act is July 1, 1997.

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