

**STATE OF NEW MEXICO**  
**LEGISLATIVE EDUCATION STUDY COMMITTEE**

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December 17, 2012

**MEMORANDUM**

**TO:** Legislative Education Study Committee

**FR:** Mark Murphy

**RE: STAFF REPORT: THE NEW MEXICO EDGE (EDUCATION DESIGNED TO GENERATE EXCELLENCE IN THE PUBLIC SECTOR)**

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**ABOUT THE NM EDGE**

The NM EDGE (New Mexico Education Designed to Generate Excellence in the public sector) is a program of New Mexico State University's (NMSU) Cooperative Extension Service and represents a collaborative effort among various entities in New Mexico's public sector, including, but not limited to:

- the New Mexico Association of Counties;
- NMSU's Department of Government;
- the New Mexico State Personnel Office;
- Daniels Fund Ethics Initiative; and
- the New Mexico Municipal League.

According to its website, NM EDGE provides continuing education opportunities for individuals working in leadership roles in the public sector. It offers comprehensive courses of study and certification programs in management behaviors and strategies that are rooted in best practices and theory from high professional standards. Its certification programs are New Mexico-focused and open to all public sector employees who are:

- administrators;
- managers;
- elected officials; or
- staff in local, state, tribal, and national government.

NM EDGE is an umbrella organization under which the following main programs operate:

- the New Mexico Certified Public Manager (NM CPM) programs;
- the Original County College and other public sector certification programs; and
- the New Mexico Certified Advocate in Public Ethics (CAPE) program.

This staff report will briefly highlight each of these programs, discuss the national recognition that NM EDGE has recently received, and provide background on NM EDGE.

### ***The New Mexico Certified Public Manager (NM CPM) Programs***

The NM CPM program is the feature program of NM EDGE. It is divided into three distinct and progressive levels and provides certification to students upon completion of each level. The linked structure of the program is as follows:

- First, students work toward the New Mexico Certified Public Official (NM CPO) certification. This initial certification level requires students to successfully complete:
  - 18 NM EDGE classes; and
  - submit a mini-essay demonstrating application of the competencies learned in the program.
- Second, upon receipt of the NM CPO certification, students work toward the New Mexico Certified Public Supervisor (NM CPS) certification. This secondary certification level requires students to successfully complete:
  - 30 NM EDGE classes; and
  - a six-hour assessment where the student must apply the competencies learned in the program.
- Third, upon receipt of the NM CPS certification, students work toward the NM CPM certification. This top certification level requires students to successfully complete:
  - 60 NM EDGE classes;
  - 18 hours of assessment where the student must apply the competencies learned in the program; and
  - a capstone project.

Throughout the NM CPM program, students take courses according to the following seven thematic tracks:

- knowing your government;
- management and leadership;
- human resources;
- budgeting and public finance;
- communications;
- information technology; and
- collecting and evaluating data for decision-making.

For greater detail about course offerings within the NM CPM program, Attachment 1 provides the Catalogue of Core & Elective Classes 2012.

### ***The Original County College and Other Public Sector Certification Programs***

NM EDGE also offers customized certification programs that are specifically tailored to meet the continuing education needs of particular county officeholders. These certification programs are offered through County College and include programs to become a New Mexico Certified:

- Treasury Official;
- Public Assessment Officer;
- County Health Care Official;
- County Commissioner;
- County Clerk;
- Geographic Information Systems (GIS) Specialist;
- Jail Specialist;
- Jail Professional;
- Extension Professional; and
- Risk Management Professional.

For greater detail about specific course offerings within the Original County College and other public sector certification programs, Attachment 2 provides the Catalogue of Customized Classes 2012.

### ***The New Mexico Certified Advocate in Public Ethics (CAPE) Program***

Finally, NM EDGE also administers the New Mexico Certified Advocate in Public Ethics (CAPE) program which is designed to provide New Mexico public officials with a comprehensive course of study in public service ethics. It provides students with information about how ethics relate to New Mexico law, decision-making, and public-private partnerships, among other topics.

## **NATIONAL RECOGNITION**

According to an NM EDGE brochure, the NM CPM program is a nationally recognized professional development program for public sector employees, supervisors, managers, and elected officials. In October 2011, NM EDGE earned accreditation from the National CPM Consortium, the organization responsible for establishing CPM accreditation standards and

monitoring CPM member programs. The brochure states that NM EDGE is the only accredited program offering CPM certification in New Mexico.

## **BACKGROUND**

In 2002, according to the NM EDGE website, the County College began as an educational program for New Mexico's county officials and employees. The New Mexico Association of Counties and the College of Agriculture, Consumer and Environmental Sciences Cooperative Extension Service at NMSU partnered to develop the initial certification programs. The first classes were offered in 2003.

In 2008, the NMSU Department of Government became a regular partner in County College and offered to develop the CPM program in conjunction with the County College. This partnership led to the development of a new core curriculum committee that established the backbone of the NM CPM curriculum. After the establishment of this curriculum, specific additional curriculum committees were created to craft educational programs to meet operational and professional development needs and to customize curriculum for groups requesting a certification program. The curriculum committees continue to meet on an annual basis to review classes and curricula for appropriate improvements.

According to the NM EDGE website, since its inception in 2003, more than 5,000 class units have been offered. In 2010 alone, nearly 2,000 class units were provided by NM EDGE. The website also specifies that close to 100 individuals have earned the NM CPO certification, several students have received their NM CPS certification, and many of those students are currently working toward earning their NM CPM designation. All program participants receive NMSU Continuing Education Units for each completed three-hour class unit.

## **PRESENTERS**

Describing the various programs and responding to questions from the committee are the following individuals:

- Ms. Mary C. DeLorenzo, Program Director, NM EDGE;
- Mr. Paul Gutierrez, Executive Director, New Mexico Association of Counties; and
- Dr. Jon C. Boren, Associate Dean and Director of the Cooperative Extension Service at NMSU.

# Catalogue of **Core & Elective Classes** 2012

## Get The **NM EDGE!**

**Education Designed to Generate Excellence in the public sector**

A Program of NM Cooperative Extension Service

➤ **The NM EDGE Certified Public Manager® Program**

➤ **The NM EDGE CAPE Program**

➤ **Customized Certifications**

▪ **The NM EDGE County College**

Open to all Public Sector Employees and Officials

❖ **The NM Certified Public Official (CPO) First level of the NM CPM**

❖ **The NM Certified Public Supervisor (CPS) Second level of the NM CPM**

❖ **The NM Certified Public Manager® (CPM) Third level of the NM CPM**

**Also featuring**

❖ **The Certified Advocate for Public Ethics (CAPE)\* Good at every level**

\*Look for our CAPE class descriptions as well as our NM EDGE County College class descriptions in our Customized Class Catalog

Class requirement checklists detailing the necessary classes to earn each of these designations and class catalogs are available at our website [nmedge.nmsu.edu](http://nmedge.nmsu.edu)

For more information contact **The NM EDGE** at 505 424 0744 or 575 646 5424 or [nmedge@nmsu.edu](mailto:nmedge@nmsu.edu)

**Note:** The **NM EDGE** is a collaborative educational program and seeks to create mutually beneficial relationships which may help our students advance their professional development.

Several of our core classes are included in certification requirements of various customized certifications. Classes with these notations indicate in which curricula the class applies.

- AO=Assessors
- CES= Extension Service
- CL=Clerks; CO=Commissioners
- GIS=Geographic Information Systems
- HC=Health Care; HS=Homeland Security
- JP=Jail Specialist & Jail Professional
- PE= Public Ethics
- TO= Treasury Officials
- CJO= AJA Certified Jail Official, CJM= AJA Certified Jail Manager

A small e added to any of the above notations indicates the class is an elective within that curriculum.

**NM CPM Core and elective classes are grouped into seven educational tracks.**

Customized classes are listed in The NM EDGE Customized Class catalogue available at our website [nmedge.nmsu.edu](http://nmedge.nmsu.edu).

For more information contact **The NM EDGE** at 505 424 0744 or 575 646 5424 or [nmedge@nmsu.edu](mailto:nmedge@nmsu.edu)

**Track I KNOWING YOUR GOVERNMENT**

**CPM 111 - KNOWING YOUR GOVERNMENT (CPO, CES, CL, CO, HC, TO, JPe, CJO)**

This class reviews democratic values, the U.S. Constitution and the New Mexico Constitution. Covered are the statutory creation of government bodies and offices, the structure of government, and limitations of elected offices.

**CPM 112 - ANSWERING THE CALL TO PUBLIC SERVICE (CPO/CPS, CES, CL, CO, TO, JPe, CJO)**

This class covers the public service ethic, ethics vs. law, public accountability, conflict of interest, advocacy in democracy and participatory democracy. This class explores strategies for engaging the public trust as part of public service.

**CPM 113 - KNOWING THE LAW I (CPO/CPS, CL, CO, TO, RMe)**

This class reviews state and federal legislative processes, the nature of mandates (funded and unfunded), how to use legal resources and specific laws relating to open meetings, public records and the Inspection of Public Records Act (IPRA).

**CPM 114 - THE PUBLIC POLICY MAKING PROCESS (CPS, AS, CO, CES, HC)**

The class identifies the players and steps in the policy-making process including problem identification, development of constituent support, agenda setting, formulating policy alternatives, selecting policy, appropriating resources, implementation and policy evaluation.

### **CPM 116- DETENTION OPERATIONS & FINANCIAL RESPONSIBILITY FOR POLICY MAKERS**

(Elective) (CJM)

This class will focus on detention from the perspective of policy makers and the financial liability of operations. This class is recommended for Detention Administrators, Commissioners, Sheriffs, Managers, Attorneys, and Finance & Purchasing groups.

### **CPM 211- KNOWING THE LAW II (Prerequisite CPM 113) (CPM, CO, RMe)**

This class addresses civil liabilities, tort claims, political campaigns, civil rights, public accountability, HIPAA, and confidentiality issues.

### **CPM 212 –CONTRACTUAL OBLIGATIONS & THE RELATIONSHIPS BETWEEN GOVTS**

Prerequisite CPM 111 (CPM, COe)

This class explores federalism, inter- and intra-governmental relations, joint powers agreements, and memoranda of understanding, contracts, and service agreements.

### **CPM 213 - POLICY DEVELOPMENT (Prerequisite CPM 114) (CPM, AS, CO, HC, CESe)**

In this class, participants assess the quality of public policy, the roles of strategy, improvisation and compromise in the public policy process, including lobbying techniques, and learn how a bill becomes law.

## **Track II MANAGEMENT & LEADERSHIP**

### **CPM 121 – ETHICS AND PROFESSIONALISM (CPO/CPS, CES, CL, CO, JP, PE, RM, CJM)**

This class examines professional codes of ethics adopted by public service organizations and reviews strategies for solving ethical dilemmas. The role of elected officials, managers and employees in creating an ethical organization is emphasized. Participants develop a personal code of ethics as an assignment.

### **CPM 122 – CONGRATULATIONS! YOU'RE A LEADER (CPO, CL, CO, CES, HC, RM, CJM)**

The basics of leadership are explored, including the self knowledge required to lead effectively, leadership styles, delegation, and guiding a team. Also reviewed are communication imperatives, effective planning, measuring results and knowing what to stop, what to keep, and what to start.

### **CPM 123 – MANAGING ORGANIZATIONAL CHANGE (CPS, GIS, HC, RM, COe, JPe, CJM)**

This class addresses: assessing current organizational conditions; the knowledge, skills, and abilities required of public managers; the dynamic manager effectively managing organizational change; realistic and implementable strategies to improve your organizational effectiveness; and building community support for increasing organizational success.

### **CPM 124 – GRANT-WRITING I: FEDERAL GRANTS AND PRIVATE FOUNDATIONS (CPS, CESe, HCe)**

Gain knowledge of grant funding sources, learn to allocate the time, resources, and people needed to compose, complete and submit a well-written and competitive grant proposal, while demonstrating your organization's capacity to implement your project successfully. CPM 124 & CPM 224 must be taken on the same day, as it is a 2-part class totaling 6 hours of instruction.

### **CPM 125 – DEVELOPING A PROFESSIONAL WORKPLACE (CPO/CPS, CO, CES, RMe)**

Apply the concept of customer service for internal customers. Explore the issues of professional behavior, dress, language and grammar and how they affect the workplace.

**CPM 126 – SELF-MANAGEMENT FOR A SUSTAINABLE CAREER** (Elective, CES, TO, RM, COe)

Create an action plan to manage yourself for success. Address time management, planning, organizing, prioritizing, and delegating. Explore stress management, strategies for focusing yourself, and how to maintain and share a sense of humor. Learn to balance your health and work.

**CPM 127 – THE CHANGING FACE OF PUBLIC MANAGEMENT** (Elective, RMe)

Learn how public management has changed over the past 20 years and what challenges public-sector managers face today in managing change for their organizations. Review the knowledge and skills public-sector managers need and methods to assess organizational strengths and weaknesses to develop organizational objectives for strategic improvement and change management.

**CPM 221- LEADING OTHERS** (Prerequisite CPM 122) (CPS, CESe, JPe, RMe, CJM)

Explore advanced concepts of goal setting, delegating, team building, coaching, counseling, directing group efforts and implementing assessments and performance reviews.

**CPM 222 – PROJECT MANAGEMENT: A DYNAMIC APPROACH** (CPS, CO, TO, RM, CESe)

Learn time-proven tactics for completing projects on time and within budget by following a multi-step process based on what has worked for highly complex public projects.

**CPM 223 – REINVENTING GOVERNMENT** (Prerequisite CPM 113) (CPM, COe)

Explore cost-saving methods for managing public services including privatizing, outsourcing, public-private partnerships, public-public partnerships, benchmarking and performance audits.

**CPM 224 – GRANT-WRITING II** (Prerequisite CPM 124) (CPS, CESe, HCe)

Learn to identify the projects of greatest interest to government agencies and foundations, and those best funded by other sources such as fund raisers, donations, and in-kind support. Learn to write project goals and objectives, project plans, and program evaluations to ensure accountability. Identify the characteristics needed for qualified individuals to manage your grant. Learn to prepare, implement, and monitor a project budget. CPM 124 & CPM 224 must be taken on the same day, as it is a 2-part class totaling 6 hours of instruction.

**CPM 225 – BEING A LEADER** (Prerequisite CPM 221) (CPM, JPe, RMe, CJM)

Gain insights into leadership concepts such as how to inspire and empower others while building trust and sharing a vision. Learn to create an action plan for continued learning in your organization, how to build effective relationships, and how to lead by example.

**Track III HUMAN RESOURCES**

**CPM 131 - GENERAL HR LAW** (CPO, CL, CO, GIS, HC, JP, TO, RM, CJO, CJM)

Learn the difference between Human Resources law in the public and private sectors including public employees' property interests in continued employment. Become familiar with the following laws: Fair Labor Standards Act (FLSA); Workers' Compensation (WC); Americans with Disabilities Act (ADA); Family & Medical Leave Act (FMLA); Equal Employment Opportunity (EEO); Title VII (Protected Classes); and the New Mexico Human Rights Act.

**CPM 132 - ELIMINATING DISCRIMINATION IN THE WORKPLACE (CPS, CES, CL, TO, JPe, PEe, RMe, CJO, CJM)**

This class helps you define workplace discrimination by addressing failure to hire, failure to promote, termination, and conditions of employment. Discern between unlawful harassment and poor management or bad behavior. Learn how to address private or off-duty conduct. Learn to prevent harassment through effective policy. Understand why there should be zero tolerance for retaliation.

**CPM 133 - CREATING A SAFE & PRODUCTIVE WORKPLACE (CPO/CPS, CO, JPe, RMe, CJO, CJM)**

Learn strategies for creating a safe and productive workplace by preventing workplace violence, establishing and using employee assistance programs, and being responsible for safety. Learn ways to reduce hostility in the workplace and provide healthy outlets through professional development programs.

**CPM 134 - RECRUITING THE BEST OF THE BUNCH (CPM, JPe, CJO, CJM)**

Learn to find the right match for your next job opening while increasing workforce diversity. Learn the basics of job descriptions, postings, and where they should be advertised. Learn those things other than money that can attract a quality applicant. The basics of equal employment opportunity law are discussed.

**CPM 135 - SELECTION FOR SUCCESS: WHEN EVERYBODY WINS (CPM, JPe, CJO, CJM)**

This class addresses what to do after the job applications come in. What can you ask in a job interview? What you need to know about background checks, reference checks, physicals and psychological assessments. What is legal and what is good practice.

**CPM 136 - RETENTION (CPM, JPe, CJO, CJM)**

This class addresses how to treat employees so they can be long-term winners for your organization. Issues addressed include: performance evaluations, workforce diversity, employee training and development, promotion, benefits, perquisites, career ladders, and discipline as a learning tool.

**CPM 137 - DISCIPLINE & TERMINATION (CPS, JP, RM, CESe, CJO, CJM)**

Be ready for the situations nobody wants. Understand the discipline process and the concepts of progressive discipline and documentation. Discern between at-will, exempt and non-exempt employees and implications of unions. Understand due process, just cause, and burden of evidence.

**CPM 138 – CONFLICT RESOLUTION AMONG EMPLOYEES (CPO, CO, RM, CESe, JPe, CJO, CJM)**

Learn the difference between formal and informal mediation and when each is appropriate to use. Learn mediation techniques appropriate for the workplace and benefit from some in-class hands-on practice to develop skills.

**CPM 139 – CREATING AN ETHICAL CULTURE (CPO/CPS, CO, GIS, JP, PE, TO, RM, CJO, CJM)**

Learn concrete ways HR professionals and supervisors can help shape and sustain an ethical culture in their organizations. Learn the importance of individual ethics and personal responsibility in shaping the culture of organizational ethics. Explore the importance of employees voicing concerns and techniques for managers to respond to concerns. Practical case studies will be presented.

**CPM 231- WORKERS' COMPENSATION & THE AMERICANS WITH DISABILITIES ACT (Prerequisite CPM 131) (CPM, JP, RM, CJO, CJM)**

Learn the history of the workers' compensation law and interests represented in law. Learn who is covered, the process for reporting claims, and issues related to employees on leave, light duty options, and the human element when exercising the law.

**CPM 232 - JOB ANALYSIS, CLASSIFICATION & COMPENSATION (Prerequisite CPM 131) (CPM)**

Review terms and definitions related to job classification. Address why job classification is important. Learn how to conduct a job analysis and define essential functions of a job, how compensation is determined, how to calculate the value of benefits, and how to deal with issues related to employee separation.

**CPM 233 - EMPLOYEE RELATIONS (Elective) (Prerequisite CPM 131) (CPM, JPe, RMe, CJO, CJM)**

Learn the essentials of labor and management relations, collective bargaining and alternative dispute resolution.

**CPM 234 – SERVING OUR MENTALLY ILL CITIZENS (Elective, HC, RMe)**

This class is designed to aid public employees who provide services to or encounter mentally ill citizens who are not always articulate or compliant and sometimes become withdrawn, frustrated or angry. Since the Americans with Disabilities Act covers the mentally ill, negative interactions can have undesirable legal consequences. This class helps providers understand mental illness, addressing fears, attitudes, beliefs, available resources and the law, while exploring appropriate and humane responses to de-escalate situations and reduce undesirable outcomes.

**CPM 236 – SUCCESSFUL SUPERVISION (CPS, JP, RM, CJO, CJM)**

Learn the benefits of influence-style leadership and key principles of this approach. Learn common excuses for not supervising staff and common supervising styles, including autocratic, democratic, laissez faire, and influence.

**Track IV BUDGETING & PUBLIC FINANCE**

**CPM 141 - PUBLIC FINANCE (CPS, TO, RM, JPe, CJO, CJM)**

This class reviews principles of public accounting and public budgeting including internal and external auditing practices. Cost analysis and financial analysis will be reviewed. The State of New Mexico budget and finance processes are emphasized.

**CPM 142 - ETHICS & MANAGING PUBLIC FUNDS (CPO/CPS, CES, CO, JP, PE, TO, CJO, CJM)**

This class explores specific legal issues such as the anti-donation clause and reviews general issues like conflict of interest, transparency, creative financing, appearance of impropriety, and definitions of fraud.

**CPM 143 - PURCHASING & PROCUREMENT (CPM, HC, JP, TO, RM, COe)**

This class reviews the State of New Mexico's procurement code, including statutory requirements for competitive bidding, professional services contracts, and the differences between RFPs and RFBS.

**CPM 144 - RISK MANAGEMENT (CPO, CL, CO, GIS, JP, TO, RM, CJO, CJM)**

This class covers the principles of risk management, the benefits of risk management to an organization, current loss trends in governmental operations, the direct and indirect costs of risk to organizations, and practical risk avoidance techniques.

**CPM 145 - INVESTING & GROWING PUBLIC FUNDS (CPM, HC, TO)**

This class reviews investment and use policies under State of New Mexico law for various revenue sources such as gross receipts taxes, property tax, special funds (e.g. sheriffs', assessors', fire, clerks', and indigent health), and retirement funds.

**CPM 146 - CREATING PUBLIC WEALTH (CPM, HC, TO)**

This class explores ways of financing public projects as well as the authorization and use of public indebtedness. The role of the New Mexico Finance Authority, bonding, and debt management along with capital improvement programs, economic development and e-commerce are also discussed.

**CPM 241 - BUDGETING I (CPS, CL, TO, RMe)**

This class covers basic budgeting skills, the role of the New Mexico Department of Finance and Administration (DFA) in the budgeting process, and the budget calendar. Budgeting as a policy tool is explored, including bringing the public into the budget process, and planning and innovating for the future. CPM 241 & CPM 242 must be taken on the same day, as it is a 2-part class totaling 6 hours of instruction.

**CPM 242 BUDGETING II (Prerequisite CPM 241) (CPS, CL, TO, RMe)**

This class continues developing budgeting skills for participants by exploring types of budgeting utilized by managers. Capital budgeting, financial reporting, effectively using budget narratives, and developing and using budget projections are reviewed. CPM 241 & CPM 242 must be taken on the same day, as it is a 2-part class totaling 6 hours of instruction.

**Track V COMMUNICATIONS**

**CPM 151 – FOUNDATIONS FOR COMMUNICATIONS (CPO, CES, GIS, HC, JP, RM, CO, CJO, CJM)**

This class will help you to identify the fundamentals of positive communication and reflect on both the speaker's and listener's roles. Uncover barriers to effective communication and discover tools to help overcome those barriers. Learn and practice skills which enhance positive communication such as Active Listening – The foundation for effective communication.

**CPM 152 - CONFLICT RESOLUTION (CPM, CES, GIS, HC, COe)**

General principles for establishing trust and finding common ground are explored. Specific techniques and skills will be covered including avoiding the blame game and making sure no one feels like a loser.

**CPM 153 - PUBLIC MEETINGS & PUBLIC HEARINGS (CPM, CO, PEe)**

This class first reviews the difference between a public meeting and the quasi-judicial public hearing. How to conduct both will be reviewed including assigning specific roles for elected officials, public administrators, and the public. Practical ideas on keeping public forums accessible, but bearable, to all will be reviewed. Logistical issues related to ADA, child care, translators and safety will be discussed.

**CPM 154 - EFFECTIVE MEETINGS BY DESIGN (CPO, CO, CES, GIS, RM)**

Planning for successful meetings is covered in this course. Reviewing the characteristics of a good vs. bad meeting and determining whether a meeting is warranted and in what format, will be covered. Setting objectives, ground rules, priorities, and agendas will be discussed as well as ideas for successfully conducting meetings, recording them, and following up with action.

**CPM 155 - IMPROVING PRESENTATION SKILLS (CPM, CES, HC, RM, JPe, CJO, CJM)**

Learn how to match your presentation to your audience, the fundamentals of researching your topic and organizing your presentation, choosing the appropriate media as well as how to utilize and practice basic oral presentation skills for maximum effect.

**CPM 156 - IMPROVING WRITING SKILLS (CPO, CES, GIS, RM, CO, HCe, JPe, CJO)**

Learn how to write to your needs: How to utilize different formats, sentence structure, grammar and punctuation to communicate effectively. This course also covers the need for concise writing, proof-reading and diplomacy. In addition, explore barriers to communication and basic laws pertaining to copyright and plagiarism violations.

**CPM 157 - CREATING A SERVICE-ORIENTED CULTURE (CPO/CPS, CO, CES, GIS, HC, ASe, JPe, CJO)**

Learn how to instill trust, respect and authenticity into the workplace to create an environment of service for the public. Interpersonal interactions among employees and between customers and employees are reviewed. Self-examination of biases is encouraged and ideas for diffusing explosive situations are covered. Also explored is: What is the ethical responsibility of civil servants to the public?

**CPM 158 - MANAGING YOUR PUBLIC IMAGE (CPM, CES, AS, COe)**

This class explores how you can communicate in ways that result in the desired public image for you and your organization. Utilizing direct communication, public media (including print and electronic press), the Web, and email (with proper netiquette) you will learn how to interact and communicate for success.

**CPM 159 - PARLIAMENTARY PROCEDURES & OTHER RULES OF ORDER (Elective, CL CO, CESe)**

The essentials of Roberts Rules of Order are reviewed for use in official meetings. Common misuses and abuses of the rules will be covered along with the philosophy of fairness that undergirds the rule

**CPM 251 - ORGANIZATIONAL INTERACTIONS (Prerequisite CPM 151) (CPM, COe, RMe)**

Creating a healthy culture for your organization through good communications internally and externally is covered in this course. The essentials of building bridges, empathy, and support systems that lead to successful collaboration are reviewed. Learn to create an action plan for improved inter- and intra-organizational communications.

**CPM 252 – MEDIATION TECHNIQUES (CPM, CESe)**

Learn principles of mediation and negotiation to reduce conflict in your workplace. Learn to increase neutrality in contentious situations, and practice techniques of mediation and negotiation to diffuse anger. Identify ways to separate the issues from the individual to gain mutual perspective in problem solving.

**CPM 253 - WRITING RESOLUTIONS, ORDINANCES AND MINUTES (Elective, CL, HCe)**

This class covers the very specific skill of writing resolutions and ordinances that have legal implications as well as minutes and minute taking.

## Track VI INFORMATION TECHNOLOGY

### **CPM 161 - MAKING THE MOST OF THE WEB (CPO/CPS, CO, CES, HC, RM, COe)**

Learn to conduct research using the Internet and explore online search engines with an emphasis on public administration resources. Learn options for developing Web pages to make your organizations' information more available to your target audiences.

### **CPM 162 - TECHNOLOGY FOR EFFECTIVE TIME MANAGEMENT (Elective, RM, CESe)**

Learn software alternatives for time management, shortcuts and how-to's to save you time and help you to manage your busy day, both on and off the job.

### **CPM 163 - IMPROVING WORD PROCESSING SKILLS (Elective, CESe)**

Create a document and give it a polished look by emphasizing text, using styles, and adding bulleted lists. Learn to revise and edit using Track Changes and Comments and accept or reject proposed changes. Add page numbers, or headers and footers to add a finishing touch to your document.

### **CPM 164 - EXCEL SPREADSHEETS FOR BEGINNERS (Elective, CESe, RMe)**

Create your first workbook and learn how to edit text and numbers, and add and delete columns and rows. Enter basic formulas and perform simple calculations or use cell reference to automatically update results. Create and customize multiple worksheets and give your final document a polished look by formatting text and adding a fill or border.

### **CPM 165 - EXCEL INTERMEDIATE LEVEL I (Elective, CESe)**

Following this class, students will be able to use new hotkeys in Excel 2007 and MS Office; use and lookup Excel 2007 functions; use cell references in calculations; find and analyze actual Tax and Revenue Data; create and edit an Excel Chart.

### **CPM 166 - ACCESS (Elective, CESe)**

Learn the basics of relational database management and how to generate reports.

### **CPM 167 - GETTING THE MOST FROM OUTLOOK (Elective, CESe)**

Communicate more efficiently by learning to organize your Inbox and how to create personalized signatures. Use the Calendar to create events, invite participants, and set reminders. Add Contacts and create Distribution Lists to send to an individual or group with a simple click. Participants will also learn how Tasks can be used to create, assign and track the status of a project.

### **CPM 168 - POWER POINT (Elective, CESe, RMe)**

Learn effective use of the presentation slide and basic design elements to create professional presentations.

### **CPM 169 - EXCEL INTERMEDIATE LEVEL II (Elective, CESe, RMe)**

Following this class, students will be able to use Excel more confidently; use Excel Functions, References, and Charts more confidently; find and analyze Census Data; create and edit an Excel Chart; and find and use existing Excel 2007 "applications".

### **CPM 261 - CURRENT ISSUES IN IT (CPO/CPS, CESe, CO, RMe)**

Explore the opportunities and dangers that come with the use of information technology. Issues of computer security, personal use of computing resources, and confidentiality of email are reviewed.

How to make the most of Internet technology is also covered, including YouTube, podcasting, RSS feeds, social networks, and more. Ergonomics and special health challenges related to computer use are also examined.

**CPM 262 – USING TECHNOLOGY TO IMPROVE ORGANIZATION (CPM)**

This class will teach you how to use technology to resolve organizational issues and how to apply technology to improve organizational operations. It will also cover how to implement technological improvements on time and within budget and how to develop and use a technology plan.

**CPM 263 – BASIC COMPUTER TECHNOLOGY SKILLS (Elective, CESe)**

Explore Office 2007 and the resources available to assist with the transition from Office 2003. Learn to use the Office 2007 ribbon, where popular commands are located and short-cuts to assist with daily projects. File management will cover folder creation, copy and paste, and how to customize folder view. Participants will also have the opportunity to learn how to connect a laptop and project for room presentations.

**CPM 264 – GIS FOR NON-GIS USERS (Elective, ASe, CESe, HCe)**

Learn what a Geographic Information System is and explore how GIS is used in several county offices. Learn the terminology, basic queries, data collection, linking data, statutory requirements and much more!

**Track VII COLLECTING & EVALUATING DATA FOR DECISION-MAKING**

**CPM 271 - THE ROLE OF RESEARCH IN PUBLIC SERVICE (Pre-reqs CPM 112,114, 123, 161 & 222) (CPM, HC)**

This class reviews the multiple purposes of research in the public sector with examples of pilot studies, program design and implementation, and surveys. Participants explore the ethics and politics of public research and how to work with researchers.

**CPM 272 - RESEARCH TOOLS FOR DECISION-MAKING (Prerequisite CPM 271) (CPM, RM)**

This class reviews how to use secondary and primary modes of research to support public decision-making. Professional journals and legal research relevant to public issues are reviewed. How to appropriately use interviews, surveys, and focus groups to inform public policy decisions will be addressed. How to analyze research results from all sources will be discussed.

**CPM 273 – COMMISSIONING ORIGINAL RESEARCH FOR DECISION-MAKING (Pre-req CPM 272) (CPM)**

How to deal with the daunting challenge of commissioning research is addressed in this course. Analyzing whether or not original research is warranted will be covered. Writing RFPs for studies and evaluating competencies of potential contract researchers insert space will also be discussed.

**CPM 274 – EVALUATING PUBLIC PROGRAMS (Prerequisite CPM 272) (CPM)**

Learn to evaluate public programs by identifying measurable objectives, collecting and interpreting program data, and writing up evaluation results. Participants will consider ethical considerations and the implications of program evaluation for the program’s future, the client population, and public policy. Class activities include development of a program evaluation plan.

For curriculum specifics please see the checklists available on our website at [nmedge.nmsu.edu](http://nmedge.nmsu.edu) where you can also find our Customized Class Catalogue.

For more information contact **The NM EDGE** at 505 424 0744 or 575 646 5424 or [nmedge@nmsu.edu](mailto:nmedge@nmsu.edu)

# Catalogue of **Customized Classes** 2012

## Get The **NM EDGE!**

**Education Designed to Generate Excellence in the public sector**

A Program of NM Cooperative Extension Service

- **The NM EDGE Certified Public Manager® Program**
  - **The NM EDGE County College**
    - **The NM EDGE CAPE Program**
      - **Customized Certifications**

Open to all Public Sector Employees and Officials

- ❖ **The NM Certified Public Official (CPO)**
- ❖ **The NM Certified Public Supervisor (CPS)**
- ❖ **The NM Certified Public Manager® (CPM)**
- ❖ **The Certified Advocate for Public Ethics (CAPE)**

The **NM EDGE's** County College currently offers the following customized certifications (additional designations will be added as they complete the curriculum committee process)

- ❖ **The NM Certified Public Assessment Officer (NMCPAO)**
- ❖ **The NM Certified County Clerk (NMCCCL)**
- ❖ **The NM Certified County Commissioner (NMCCC)**
- ❖ **The NM Certified Treasury Official (NMCTO)**
- ❖ **The NM Certified Extension Professional (NMCEP)**
- ❖ **The NM Certified GIS Specialist (NMCGISS)**
- ❖ **The NM Certified County Health Care Official (NMCCCHCO)**
- ❖ **The NM Certified Jail Specialist (NMCJS)**
- ❖ **The NM Certified Jail Professional (NMCJP)**
- ❖ **The NM Certified Risk Management Professional (NMCRRMP)**

Class requirement checklists detailing the necessary classes to earn each of these designations are available at our website [nmedge.nmsu.edu](http://nmedge.nmsu.edu) as is the Core & Elective Class Catalogue

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## **PUBLIC ASSESSMENT OFFICER (Assessors, etc)**

### **AO TO 100 – ROLES & RESPONSIBILITIES OF ASSESSORS & TREASURERS OFFICES (eq AO 201)**

This class is designed to heighten awareness between the two offices to improve their professional interactions. The legal definition of each office will be reviewed, as well as roles and responsibilities of each office, including tax roll timeliness, tax roll corrections, tax rates, warrants, abstracts, mobile home issues and recording issues.

### **AO 101 – INTRODUCTION TO ASSESSMENTS**

This class gives a very basic and broad overview of assessments including mapping, appraisal, real property and personal property, mass appraisals, special methods of valuation, limitation on values, exemption types, assessment math, tax rates, and conveyances.

### **AO 102- PERSONAL PROPERTY REPORTING & VALUATION (eq PTD 107)**

This class covers the definitions of and the best practices for handling the special method valuation of personal property and reporting requirements, concerns, and difficulty in enlisting compliance.

### **AO 103 –TITLE CONVEYANCE**

This class covers title transfer issues, elements of a deed, types of ownership, types of conveyances of documents, decedent's estates, and the Assessor's role in keeping ownership records and in the transfer process, bankruptcy proceedings, transfer of title by government actions and judicial proceedings, estates and trusts, severed mineral estates and mining claims, as well as contracts of sale.

### **AO 104 – PROPERTY VALUATION APPEAL: PRESENTING YOUR BEST CASE**

This class covers the appraisal process, informal hearings, statutory requirements, types of protest, property protest process, county valuation protest, the Assessor's and the Appraiser's roles plus decision and the process for appeal of decision by either party.

### **AO 105-ABSTRACTS & CERTIFICATIONS (eq PTD 103)**

This class covers the basics and best practices of abstracts and certifications.

### **AO 106-BUDGETS & REVALUATION PLAN (eq PTD 105)**

This class covers the basics and the best practices when creating budgets & revaluation plans.

### **AO 107- SPECIAL METHOD of VALUATION: AGRICULTURAL PROPERTY (eq PTD 106)**

This class covers the special method of valuation for assessing agricultural property including definitions and best practices.

### **AO 108 – SPECIAL METHOD OF VALUATION: MANUFACTURED HOMES**

This class covers manufactured home valuation including statutory and regulatory requirements, distinguishing characteristics of manufactured, modular, prefab & stick built homes, classification and sub-classification issues, and manufactured homes made permanent. This class also explores the distinct roles of the Assessor, the Treasurer, the manufactured home owner, the lending institution, the manufactured Housing Division, the Department of Motor Vehicles and the title company. Also covered are the topics of moving manufactured homes, manufactured home discovery, valuation and sales confirmation, and use of the new universal forms being promoted by the NM Manufactured Housing Task Force.

### **AO 109 – THE ASSESSMENT CALENDAR**

This class covers the essential dates and deadlines involved in the assessment calendar including taxable and status date, formation of special districts and annexations, rendition period, notice of value, property protest period, budget process, annual County Assessor's evaluation, certification of values, rate setting and approval process, tax schedule development and abstracts and warrants.

### **AO 110- TAX RATE CERTIFICATION, YIELD CONTROL, & INTEPRETING TAX RATE CERTIFICATES (eq PTD 104)**

This class clarifies the complicated business of tax rate certification, interpreting tax rate certificates and application of the yield control formula.

### **AO 111 TAX ROLL CORRECTIONS (eq PTD 101)**

This class provides students with the knowledge to understand the purpose of tax roll corrections and how to apply the due process required in making a tax roll Correction; definition of clerical errors; defining and recognizing multiple valuations; definition of personal property deemed un-locatable, unidentifiable or uncollectible; and other sources of tax roll corrections.

### **AO 112 – TAX EXEMPT PROPERTIES, QUALIFICATION & ONGOING TAX TREATMENT**

This class will review Article VIII-Section 3 of the New Mexico Constitution, Statute 7-36-7 and applicable regulations, the application process, timetable and documents needed for charitable, educational, and religious tax treatment, as well as a review of applicable case law.

### **AO 113 – BASIC ECONOMICS FOCUSING ON REAL ESTATE MARKETS**

This class examines the major branches of economics, the interaction between supply and demand in setting price/value, market imperfections that impact equilibrium & welfare, and the role of Government intervention in real estate markets.

### **AO 114 – MASS APPRAISAL VS. FEE APPRAISAL APPROACH PLUS SUBDIVISION VALUATION/APPRaisal**

This class combines two important aspects of the Assessor's office into one class. The first part will explore the differences between mass appraisal and fee appraisal including the definition of each, the best approach for different types of properties, developing and interpreting frequency distribution and the components of a good data management system. The second part of this class will cover the different methods of land valuation, the concept of present worth, discount rate calculation, discounted cash flows, phases, holding periods and case studies in application of present worth.

### **AO 115 – NM MAPPING PROCEDURES AND REQUIREMENTS FOR THE ASSESSOR'S OFFICE**

This class will teach the proper terminology used with mapping systems, statutory requirements, understanding legal descriptions, mapping math, mapping methods and equipment, drawing mete and bounds descriptions, drawing curves, school districts and annexation as well as using parcel identification systems and how to handle splits and combinations.

### **AO 116 – ADMINISTERING SPECIAL TAX DISTRICTS**

This class begins with the definition of a special tax district and moves right into industrial revenue bonds, indentures and the implications for taxable status, Assessor's records, TIF, TID, PID and MUD.

**AO 117- ASSESSOR EVALUATION STANDARDS (eq DFA 108)**

Assessor Evaluation Standards

**AO 118 – PROPERTY DESIGN AND MEASUREMENT**

This class covers design and measurement practices, measuring devices and forms, architectural design, determining size and style, condominium measurements, determining net rentable area and HUD, FannieMae and Ad Valorem Standards.

**AO 206 – NM PROPERTY TAXES: CONSTITUTIONAL PROVISIONS AND COMPARISON WITH OTHER GOVERNMENT REVENUE SOURCES**

This class examines the New Mexico State Constitution and the creation of Property tax, as well as other major New Mexico State and Local revenue sources, the State's General Fund revenues sources, and traditional tax criteria.

NOTE: As of 2012, classes AO203, AO204, and AO208 are no longer offered. Anyone having taken one of these classes may use it as an elective. The content of each has been incorporated into other classes.

**COOPERATIVE EXTENSION SERVICE**

**CES 101- THE HISTORY AND PHILOSOPHY OF EXTENSION**

This class explores the history and Congressional action which created extension as well as the scope, mission, and core values encompassing the philosophy of extension; traditional program areas; the structure of NM Extension, and characteristics of good agents/specialists as well as their qualifications and duties. Core values include professionalism, ethics, mentoring, and expectations of the CES culture.

**CES 102- DEMYSTIFYING THE NMSU SYSTEM**

This class covers the basics of working within the NMSU system and cover topics such as: risk management & safety; record retention policy; financial transaction policies including banner & p-card transactions; travel requests; reimbursement vouchers; ; confidentiality; conflict of interest, technology use policy; effective and appropriate use of email and social media; and general rules of engagement.

**CES 103- CIVIL RIGHTS IN EXTENSION WORK**

This class covers the history and significance of civil rights legislation; programmatic and employment EEO compliance (Titles VI, VII, IX); diversity; ADA; documentation how-to's; and the Civil Rights filing system.

**CES 104- EXTENSION PROGRAM DEVELOPMENT AND EVALUATION**

This class covers the intricacies of program development and evaluation including: planning, design and implementation; accountability and reports; advisory committees; evaluation tools; agent/specialist interaction/ learning your communities and its internal and external resources; and interaction among agencies, community groups, and volunteers.

### **CES 105- EFFECTIVE DELIVERY OF EXTENSION PROGRAMS**

This class will explore various aspects of effective delivery of extension programs including the effective use of technology; how to develop delivery systems such as newsletters, media, workshops, promotion, and extension publications; and exploring the intricacies of adult versus youth learning and communication styles.

### **CES 106- EXCELLING IN EXTENSION PERFORMANCE DOCUMENTATION**

This class will cover promotion and tenure (P & T) portfolio development; organizing and maintaining the document content; digital measures; plan of work development; impact reporting; mentoring; and the value of professional associations.

## **COUNTY CLERK**

### **CL 100-ROLE & RESPONSIBILITIES OF NM COUNTY CLERKS (eq CL 201)**

This class covers the specific duties and responsibilities of the NM County Clerk and functions of their office including newspaper subscriptions, service of process against county, etc.

### **CL 101-ELECTION LAW I**

This class covers election law including Federal election law & Federal regulations.

### **CL 102-ELECTION LAW II**

This class covers election law including New Mexico state law & NM statutes.

### **CL 103-ELECTION LAW III**

This class covers election law including NM rules, regulations & administrative complaints.

### **CL 104-CLERKS CALENDAR & SPECIAL ELECTIONS**

This class covers the standard 2 year election calendar plus special elections like bond issues, lodgers tax etc.

### **CL 105- POLITICAL PARTIES, VOTER REGISTRATION & THIRD PARTIES**

This class covers third parties and political parties including challengers and watchers, as well as voter registration, National Voter Registration Act and NM law.

### **CL 106-CENSUS & REDISTRICTING**

This class covers the role of the County Clerk's Office in this important process.

### **CL 107-ADMINISTRATIVE PROCEDURES ACT**

This class covers the NM Administrative Procedures Act including record retention, record destruction, archive policies and requirements.

### **CL 108-OVERVIEW OF PROBATE LAW & PROBATE FORMS**

This class offers a survey overview of the laws and forms involved in NM Probate including "transfer on death" deeds.

### **CL 109-VERIFICATIONS IN THE NM COUNTY CLERKS' OFFICE**

This class covers marriage licenses & records, vital records, certificates including death certificates, notary, and oaths.

### **CL 110-MISCELLANEOUS FILINGS IN THE NM COUNTY CLERK'S OFFICE**

This class covers liquor & business licensing, oil & gas leases, solar rights, wind rights, water rights and UCC.

### **CL 111-PROPERTY AND UNDERSTANDING MAPS & PLATS**

This class covers the basics of property including what is property, how to understand the general levels of property, why and how we hold property, indexing, transfer on death, and holdings.

### **CL 112-PUBLIC RECORDS ACT & REDACTION POLICIES**

This class covers the NM Public Records Act including recording Veteran discharge. Also covered is the hot-button issue of redaction and privacy issues.

### **CL 113-ELECTRONIC FILING**

This class covers the details of electronic filing including electronic signature, e-notary, and URPERRA.

### **CL 131-POLL WORKERS & TEMPORARY HIRES**

This class covers the roles and responsibilities of poll workers in early, absentee, Election Day & recounts; as well as best practices in temporary hires.

## **COUNTY COMMISSIONER**

### **CO 101-THE ROLE AND RESPONSIBILITIES OF THE COUNTY COMMISSIONER**

This class will cover the specific duties and authority of the County Commissioner as policy maker. It will begin with the organization of County Government and an overview of other elected offices. Specific duties will be covered including appointments, filling vacancies, licensing, Canvassing Board, County Board of Finance, as well as other boards and offices.

### **CO 102-COUNTY SERVICES & FUNCTIONS PART I: Public Works & Land Use**

This class will cover roads/highways, bridges, property (including acquisition within the Procurement Code, disposal, takings, etc), Planning & Zoning, Subdivisions, Recreation & Libraries, and Facilities such as airports, fair grounds, recreational, & libraries.

### **CO 103-COUNTY SERVICES AND FUNCTIONS PART II: HEALTH WELFARE, & PUBLIC SAFETY**

This class covers all aspects of health, welfare, & public safety in the county including E-911, Fire Districts, DWI, Hospitals & the Indigent Fund, Animal Control, Environmental Controls (air, water, and solid waste) and the Cooperative Extension Service.

### **CO 113-OPEN MEETINGS PUBLIC RECORDS ACT FOR THE COMMISSIONER**

This class covers the Open Meetings and Public Records Act with emphasis on the Open Meetings Act and special situations that could get commission members in trouble.

### **CO 131-EMPLOYMENT LAW FOR POLICY MAKERS**

Elected officials who do not supervise employees directly still need to know about laws that protect county employees. This course will provide policy makers such as commissioners with an overview of employment principles they need to comply with when adopting personnel policies and will help them understand the legal parameters their supervisors are required to

follow. Policy makers such as Commissioners will also learn about the pitfalls of becoming personally involved in employment matters and the potential for individual liability.

**CO 141-SOURCES & USES OF PUBLIC FINANCE PART I**

A policy maker specific class that covers how to read a budget and a financial statement, property valuation process, special districts, IRB's etc.

**CO 241-SOURCES & USES OF PUBLIC FINANCE PART II (Pre-Req CO 141)**

Continuation of Part I

**CO 272-COMMUNITY ECONOMIC DEVELOPMENT; RESOURCES, SKILLS & TOOLS**

This class examines definitions, strategies and financing for community economic development. Students explore specific development strategies, including business attraction, retention and expansion of existing businesses, fostering home grown businesses, and developing an entrepreneurial climate. Public and private mechanisms for financing economic development are also studied.

**CO 273-EVALUATING PROPOSALS AS AN ECONOMIC DEVELOPMENT TOOL**

TBD

**DETENTION ADMINISTRATOR**

**DA 110 -CRISIS INTERVENTION FOR DETENTION ADMINISTRATORS**

This course will train detention administrators on the following: The five major mental illnesses and their symptoms; How to discern brain disorders treatable with medication from socio-pathologies common among criminals: Learning medications used to treat mental illness and their side effects: Familiarizing administrators with mental illness treatment requirements under the law; Managing pharmaceuticals in the detention setting and potentials for misuse in the inmate population; and De-escalation methodology with the mentally ill in a detention setting.

**FINANCE AND PURCHASING**

**FP 110 -INTERNAL CONTROLS FOR FINANCE AND PURCHASING**

This course will address classic controls including proper documentation of transactions and proper authorization of transactions. The concept of compensating controls will be explored, including unique controls that replace classic controls and proper design of compensating controls. Segregation of duty assignments relating to authorizing and recording transactions, maintaining custody of assets and monitoring activities will be addressed. How to compensate when such separation is impractical is reviewed.

**GEOGRAPHIC INFORMATION SYSTEMS (GIS)**

**GIS 101-CORE-GEOGRAPHY; THE ORIGINS OF THE GIS PROFESSION**

This class will include an introduction into geography, what it is and how to use it, as well as an overview of maps and what it is we are mapping. It will cover a general survey of the origins of mapping such as US Census (TIGER), US Geological Survey, DRG's, DOQQ's, and more.

### **GIS 102-VECTOR DATA INPUT**

Digital line work, polygon closure, coincident data sets, data creation; a non-vendor specific computer class; what is vector data; and what is raster data.

### **GIS 104-UNDERSTANDING COORDINATE SYSTEMS & PROJECTIONS**

This class will teach the basic use of datums; map projections; land survey; GPS coordinates (geoid or ellipsoid); and ground to grid conversions.

### **GIS 121-THE ETHICAL USE OF GIS**

This class will explore of the concept of “critical GIS”; the GISCI Code of Ethics; and the professional code of conduct that one should employ when considering appropriate and ethical use of GIS information. **We strongly recommend taking all other GIS classes prior to taking this class.**

### **GIS 155 -GIS PRESENTATION SKILLS**

This class will explore the intricacies of presenting data to convey meaning that is appropriate to the audience.

### **GIS 161-MAKING THE MOST OF THE WEB FOR GIS PROFESSIONALS (elective)**

This class will feature a GIS emphasis with information on how to find and use available on-line spatial resources; data extraction; how to present those data; and discussions on what data are appropriate to publish to the web.

### **GIS 162-INTEGRATING AND MANIPULATING DATA SETS**

Review of raster and vector data types, as well as storage methods. Methods and practical examples of how to retrieve and use both raster and vector data will be covered. Methods to integrate raster and vector data for analysis and modeling will be explored.

### **GIS 166-GPS IN THE FIELD**

This class provides an overview of GPS data collection in the field; review the different types of data (e.g. point line or poly) and the varying methodologies to efficiently capture each type; how to develop a project; how to define and use a data dictionary; photos with embedded GPS coordinates; offsets & heights with GPS and more.

### **GIS 167-MSAG MAINTENANCE (ELECTIVE)**

This class will cover the basics of understanding the Master Street Address Guide or MSAG; the logic and techniques for scrubbing; synchronization; maintenance; and evolution to “Next Generation” 911 (NG911).

### **GIS 201-METADATA**

This class will cover an overview of FGDC Standards & ISO Standards; understanding spatial accuracy; distinctions among spatial resolution, accuracy, & precision; and how to document metadata: how to create them and how to read them.

### **GIS 202-VECTOR INPUT PRACTICUM (elective)**

Vendor specific solutions.

### **GIS 203-BASIC TOPOLOGY (Pre-req GIS 102)**

This class will explain, through example, the topological rules and behaviors that model how points, lines, and polygons share coincident geometry; how topology rules contribute to maintaining GIS data integrity; and introduce how topology is edited to correct errors.

**GIS 204-REMOTE SENSING (elective)**

This overview class will give an understanding of various types, characteristics, and potential uses of both analog and digital imagery.

**GIS 262 -ORGANIZING GIS DATA (Pre-req GIS 102 & GIS 202)**

**\*\*Recommend taking GIS 161 & GIS 162 prior to taking this class\*\***

A survey of raster and vector data models, graphic data compression, image pyramids, database structures, and georelational data models (e.g. geodatabase). Discussion of the advantages and disadvantages within an enterprise: especially regarding storage space, modeling utility, and interoperability.

**GIS 263 A & B - URISA ADDRESSING**

This class covers the basics of addressing, its uses, and the interplay with important systems such as E-911. Both classes must be taken in the same day; this is a 6 hour class.

- **GIS 263 A** - This part of the workshop (part a) is designed to provide a guide to how address assignment and maintenance works at the local level. It focuses on Address Reference Systems and “on the street” issues.
- **GIS 263 B** - The Address Data portion (part b) workshop focuses on how address data are modeled within a relational database, and used as spatial data in a GIS environment. It focuses on standards, data models, and data management, and is more technically oriented.

**GIS 265\* A & B- USING GIS TECHNOLOGY TO IMPROVE YOUR ORGANIZATION**

This class is designed to educate decision makers, as well as GIS professionals, in the GIS process and how it can make any organization more effective. Both classes must be taken in the same day; this is a 6 hour class.

- **GIS 265 A** - This class provides a basic understanding of the role of institutional design in the long-term successful functioning of the GIS inside an organizational setting. The focus of this first class is the concept of technology seminar and institutional buy-in.
- **GIS 265 B** - This is a continuation of the institutional design class. It provides an overview of the GIS design process. Topics include information product descriptions, system requirements, benefit-cost analysis, security issues and implementation planning.

\*Request to make these CPM classes going through approval process.

**GIS 266- IMAGERY INTERPRETATION (Pre-req is GIS 204) (elective)**

This class will provide a survey of visual image interpretation; discussion of scale, coverage, and utility for specific interpretation tasks; review of interpretation factors (e.g. tone, texture, scale, association, color, time, etc.); major approaches to image interpretation( e.g. A priori and A posteriori); and discussion of interpretation accuracy and certainty.

**COUNTY HEALTH CARE**

**HC 102– THIRD PARTY PAY ISSUES PART I**

This class addresses the first part of medical entitlement programs, medical terminology and medical issues.

### **HC 103– GENERAL EPIDEMIOLOGY & CHRONIC ILLNESSES**

This class addresses the issues surrounding the statutory mandate of 27-5.

### **HC 104– HIPAA: IMPLICATION FOR THE HEALTH CARE OFFICIAL**

This class explores the technical and ethical concerns regarding the implementation, practice, and ramifications of this legislation.

### **HC 110– INTRODUCTION TO ETHICS FOR THE NM HEALTH CARE PROFESSIONAL**

This class addresses the ethical analyses needs of New Mexico county health alliance staff. Ethics will be defined and ethical dilemmas identified. Principles for calmly analyzing ethical dilemmas are reviewed. New Mexico Statute 27.5 – the Indigent Health Care Act -- is reviewed for its impact on the conduct of county health care staff.

### **HC 202– THIRD PARTY PAY ISSUES PART II (pre-req HC 102)**

This class picks up where Part I left off and further explores medical issues including medical billing (DRG, EPT, UB Bundling, etc.), prescription drug guidelines and dental referrals.

## **HOMELAND SECURITY**

### **HS 100- INTRODUCTION TO THE NATIONAL INCIDENT MANAGEMENT SYSTEM (CJO, CJM)**

This course provides an introduction to the National Incident Management System (NIMS). At the end of this course, participants will be able to describe the intent of NIMS; describe the key concepts and principles underlying NIMS; describe the purpose of the NIMS components, including preparedness, communications and information management, resource management, and command management; and describe the purpose of the National Integration Center. This course provides a basic introduction to NIMS. It is not designed to replace Incident Command System or position-specific training.

### **HS 101- INTRODUCTION TO THE INCIDENT COMMAND SYSTEM**

This class introduces the Incident Command System (ICS) and provides the foundation for higher-level ICS training. This course describes the history, features, principles, and organizational structure of the ICS. It also explains the relationship between ICS and the National Incident Management System (NIMS). Topics include: ICS overview; basic features of ICS; incident commander and command staff functions; general staff functions; ICS facilities; and command responsibilities.

### **HS 102 A & B- PUBLIC INFORMATION AWARENESS TRAINING FOR EMERGENCIES (6 hours/ 2 classes)**

- HS 102 A- Part I of a two-part class. This is awareness-level training for individuals who have public information responsibilities as their main job or as an auxiliary function at State, local, or Tribal levels of government or for elected or other officials who want an overview of emergency public information.
- HS 102 B- Part II of a two-part class. This class is a continuation of Part I.

Both classes must be taken in the same day; this is a 6 hour class.

### **HS 103- BASIC ORIENTATION TO EMERGENCY OPERATIONS CENTERS (CJO, CJM)**

This three-hour Emergency Operations Center (EOC) Basic Orientation course is designed to deliver basic knowledge of the New Mexico Emergency Operations Center and operational

procedures including: Review local, state and federal emergency management architecture; review of Incident Command Systems and the operational command system of the state EOC; effective management of internal and external information and communications ; Emergency Operations Center activation levels and processes; and review of situational awareness processes.

### **HS 108-EXERCISING COUNTY EMERGENCY PLANS (CJO, CJM)**

This three-hour class is an instructor facilitated, scenario-based, modified table-top exercise designed to test local emergency operations plans and their associated annexes. This exercise allows participants to openly discuss response roles and requirements to a variety of all hazards incidents. General topics discussed include: Review of local emergency operations plans and their annexes; review of local resources required for an incident; review of public information requirements during an incident; and establishment of working relationships between traditional and nontraditional responders.

### **HS 109– DISASTER PREPAREDNESS(CJO, CJM)**

This course provides participants with the tools to effectively manage a disaster in their jurisdiction. The primary objective of the class is to gain a thorough understanding of disaster declaration processes by exploring basic emergency management principles combined with relevant State and Federal guidelines for such events. Throughout the course students will also be exposed to available local and statewide resources.

### **HS 110– INCIDENT MANAGEMENT FOR EXECUTIVES**

This class describes the Incident Command System, terminology of the system, how the system can be applied and the role of senior officials in an incident. Administrative, logistical, financial, and reporting implications of large incident operations are explored. Learn important sources of information and how to access them. Agencies, policies and guidelines related to an incident are explained, including emergency operation centers, multi-agency coordination and on-incident ICS organizations.

### **HS 111 A & B– PREPARING COMMUNITIES FOR AGRICULTURAL INCIDENTS (6 hours/2 classes)**

- **HS 111 A** – Part I of a two-part class. This class provides participants with competency in the following areas: 1) Awareness of possible targets of opportunity in their region; 2) awareness of an infrastructure of community sources; and 3) awareness of the need for a plan to identify, collect, and share information with State and Federal agencies
- **HS 111 B**- Part II of a two-part class. This class is a continuation of Part I.

Both classes must be taken in the same day; this is a 6-hour class.

### **HS 112 – THE ROLE OF GIS IN AGRICULTURAL SECURITY**

Students are introduced to GPS programs used by agricultural inspectors. Examples of GIS use in agriculture are given. Accessibility of data via networks including HSIN and NMDA sources are explained. Defining quarantine areas for various outbreaks incidents is explored.

### **HS 113 – AGRICULTURAL EMERGENCY PREPAREDNESS SIMULATION**

This interactive session is a training scenario that will inform county officials of your response in case of a agriculture emergency. This is designed to let you participate as a county official in an

agriculture emergency regardless of whether it is natural, accidental or criminal in nature and will be realistic enough to inform you of your role and responsibility.

## **JAIL SPECIALIST (Level I)**

**Note:** The NM EDGE is a collaborative educational program and seeks to create mutually beneficial relationships which may help our students advance their professional development.

The NMAC Loss Prevention program encouraged NM EDGE County College and the curriculum committee to create this track with an eye towards preparing New Mexico Jail personnel to pursue national certification, if desired.

Several classes in the Jail Curriculum may be used to qualify for national certifications through the American Jail Association (AJA). A notation of CJO indicates this class may be counted in the AJA Jail Official certification, a notation of CJM indicates this class may be counted in the AJA Jail Manager certification, and a class with both noted, could count in either program.

### **JP 101-BEST PRACTICES IN DAILY FACILITY OPERATIONS (NMCJS, CJO)**

This class will discuss best practices from a systemic approach in a jail setting, the need to have defined standards, reliable policies, procedures and post order and strategies on how to evaluate your systems.

### **JP 102-BASIC INVESTIGATIONS (NMCJS, CJO, CJM)**

This class will discuss the basic elements that are needed in developing a basic facility investigations policy, discuss interview techniques, discuss evidence gathering and preservation protocols, discuss testifying strategies, discuss the different types of investigations and how to develop a tracking system for investigations.

### **JP 103-USE OF FORCE (NMCJS, CJO)**

This class will address legal issues surrounding the use of force in a jail setting, the elements of model use of force policies and procedures, permissible and impermissible use of force options, reporting requirements and strategies on how to reduce liability.

### **JP 104-CRISIS INTERVENTION TEAM TRAINING I (NMCJS, CJO)**

This course will provide line and support staff with suggested skills and knowledge regarding detainees that exhibit chronic symptoms of mental illness that result in confrontations that require intervention and safe de-escalation. Right way; wrong way scenarios are presented and discussed by expert instructors.

### **JP 105-INSTITUTIONAL SAFETY MANAGEMENT (NMCJS, CJO, CJM)**

Detention facilities must comply with environmental and occupational safety requirements while attending to special security needs. This class reviews EPA/OSHA Compliance, Safety Issues, Sharps, Cleaning Supplies, Hazard Reduction, Fire Safety, Sanitation, and Institutional Safety Management.

### **JP 106-SPECIAL POPULATIONS I (NMCJS, CJO)**

This two part class reviews the rights and needs of inmates in special populations and discusses how these rights and needs affect detention operations. Topics include pre-

disciplinary/disciplinary, administrative segregation, protective custody, security threat groups, juveniles, medical issues and other special needs inmates. Classes may be taken in either order.

**JP 107-SPECIAL POPULATIONS II (NMCJS, CJO)**

This two part class reviews the rights and needs of inmates in special populations and discusses how these rights and needs affect detention operations. Topics include pre-disciplinary/disciplinary, administrative segregation, protective custody, security threat groups, juveniles, medical issues and other special needs inmates. Classes may be taken in either order.

**JP 108-INMATE CLASSIFICATION SYSTEM (NMCJS, CJO, CJM)**

This class addresses the need for a formal classification process for managing and separating inmates. The participants will discuss the necessary elements of a classification system and the challenges faced by facilities in implementing a classification system.

**JP 109-CRITICAL INCIDENT FACILITY TRAINING (NMCJS, CJO, CJM)**

This class will address strategies and guidelines that are necessary in the development of jail emergency plans to include topics such as, disturbances, escapes, hunger strikes, escapes, fire evacuations, natural disasters and inmate deaths in a facility. The class will also discuss mutual aid agreements that are typical to any facility emergency plan.

**JP 111-INMATE RIGHTS PART I (NMCJS, CJO)**

This two part class reviews inmates' constitutional rights and discusses how these rights effect detention operations. Issues covered include privacy, religion, association, medical/mental health care, due process, conditions of confinement. Classes may be taken in either order.

**JP 112-INMATE RIGHTS PART II (NMCJS, CJO)**

This two part class reviews inmates' constitutional rights and discusses how these rights affect detention operations. Issues covered include privacy, religion, association, medical/mental health care, and due process, conditions of confinement. Classes may be taken in either order.

**JP 114-MANAGING JUVENILE & YOUTHFUL OFFENDERS (NMCJS)**

This class explores the unique and common issues in dealing with the special population of juvenile and youthful offenders.

**JP 115- EFFECTIVE DETENTION SUPERVISION SKILLS (NMCJS)**

This class covers the roles and responsibilities of the First-Line Supervisor; understanding and working with generational differences; and inspiring consistent policy compliance.

**JP 121-SEXUAL MISCONDUCT (NMCJS, CJO, CJM)**

This class covers the Prison Rape Elimination Act (PREA) and legal theories under which counties and staff can be civilly and criminally liable for sexual misconduct. Students will review the essential components of a sexual misconduct policy and discuss challenges to implementation.

### **JP 151-TECHNICAL WRITING FOR DETENTION (NMCJS, CJO)**

This class will focus on the importance of writing accurate reports in a jail setting, the critical need to document facility occurrences, the need to properly maintain logs and the elements that need to be included in a facility policy and procedure manual and the importance of maintaining statistical data for facility operations and quality assurance.

## **JAIL PROFESSIONAL (Level II)**

### **JP 204-CRISIS INTERVENTION TEAM TRAINING II (NMCJP, CJM)**

Detention managers and supervisors will be coached in the proper handling of critical incidents and mentally ill detainees. Staff training, risk management, documentation and safety management topics will be presented by experienced, recognized experts.

### **JP 209-HEALTH SERVICES (NMCJP, CJO, CJM)**

Detention facilities are legally required to provide reasonable and necessary medical care for inmates' serious medical and mental health conditions. In this class students will learn the components of an acceptable medical/mental health program including screenings, assessments, physicals, "sick call", emergency care, chronic care, dental care, medical staffing and contracts. A team of experts instruct this class focusing on medical and legal.

### **JP 211-ADULT PROFESSIONAL STANDARDS: ATTAINING ACCREDITATION (NMCJP, CJO)**

This class will discuss the history and purpose of accreditation. It will outline the New Mexico Local Government Accreditation Program, the National Commission on Healthcare, and the American Correctional Association, the eligibility criteria of each, and the steps necessary to obtain accreditation.

### **JP 212-INTERGOVERNMENTAL RELATIONS FOR DETENTION (NMCJP, CJO, CJM)**

This class discusses the relationships between detention and other agencies such as law enforcement, the courts, probation and parole, the Department of Corrections, and Immigration and Naturalization. It also explores the benefits of information sharing, fostering relationships, coalition building and collaborations.

### **JP 221-DEVELOPING OPERATIONAL POLICY FOR DETENTION ADMINISTRATORS (NMCJP, CJM)**

This class will explore the critical need for developing and maintaining operational policy, procedures and post order in a detention setting. This class will also discuss various formats and best practice sample policies, procedures and post orders and tracking strategies for keeping them up to date.

### **JP 222-STAFF DEVELOPMENT (1<sup>ST</sup> YEAR) (NMCJP, CJO, CJM)**

This class covers the components of an effective staff development program including: Orientation, Basic Training, In-Service, On the Job Training, Specialized/Certifications, Developing curricula/lesson plans/objectives, Creating a Learning Environment, Tying Continual Learning to Performance Evaluation, Coaching Leadership Opportunities, and Self Development.

### **JP 223-SERVICE CONTRACT PROVISIONS (NMCJP, CJO, CJM)**

This class is an overview in the use of contractors for services such as medical care, food service, and vermin control. It will cover the roles and responsibilities of the contractor and administration, and elements to be considered for inclusion and exclusion in the contract.

### **JP 224-PERFORMANCE AND QUALITY ASSURANCE (NMCJP, CJO, CJM)**

A continuous or ongoing quality assurance program is an essential component of a well run detention operation. In this class participants will review the characteristics of a QA program and how to implement it including examples of aspects of the operations that should be regularly evaluated such as medical, security, programming, grievances, food service etc.

### **JP 225-INMATE SUPERVISION (NMCJP, CJO)**

This class covers the pros and cons of direct and indirect supervision, the necessity for standard operating procedures regarding supervision, the need for proper documentation, and the use of technology for supervision.

### **JP 241-BUDGETING FOR DETENTION MANAGEMENT (NMCJP, CJM)**

This class addresses guidelines that will help administrators secure the necessary funding they need to meet the jail's primary objectives. The class will address the key elements of a jail budget, types of budgets, how to perform a needs assessment, how to present a budget and strategies on managing a jail budget.

## **PUBLIC ETHICS**

### **PE 110- KNOW THE LAW**

In this class students will learn to identify violations in ethical conduct and identify the laws or guidelines that make the conduct inappropriate or illegal including the NM Governmental Conduct Act and other statutory requirements. Students will learn how to carry out the spirit of these laws, to engage the public, and to democratize government.

### **PE 111- NM GOVERNMENTAL CONDUCT ACT**

This class reviews the specific letter of this law and explores the role of the individual public servant in carrying out the intent of the law.

### **PE 120-DO THE RIGHT THING**

In this class students will explore the 7 Universal Values of integrity, fairness, compassion, loyalty, respect, responsibility, trustworthiness; compare theories of ethics; recognize ethical dilemmas; and learn to apply ethical theories to decision making in daily life.

### **PE 128-WALK THE TALK**

In this class students will learn how to analyze the context and elements of ethical decision making as viewed through various perceptual filters including personal and cultural values; and learn how to develop and implement a personal ethics statement.

### **PE 140-DANGEROUS LIAISONS**

This class explores the complex and potentially illegal nature of power, sex, and money.

### **PE 147-RISKY BUSINESS: PREVENTING & MITIGATING DAMAGE**

This class explores the value of anticipating potential risk and developing policies and procedures to prevent and mitigate damage to your organization's reputation, integrity, and bottom line.

### **PE 220-PRINCIPLE BASED DECISION MAKING**

This class will explore the value based decision making process in depth; how values help to analyze, select, and explain a course of action taking into consideration personal and organizational values including the following tests: virtuous character, disclosure rule, professional ethic, and intuition ethic.

### **PE 239-ETHICAL LEADERSHIP (pre req CPM 139)**

In this class leaders will explore their responsibility in creating an ethical organization including: developing standards, inspiring, modeling, assessing and enforcing ethical behavior.

## **RISK MANAGERS**

### **RM 102- ERGONOMICS FOR EVERYONE**

This class covers workstation design; bio-mechanics; and considerations when selection proper tools.

### **RM 103- ACCIDENT INVESTIGATION AND REPORT WRITING**

This class will cover identifying root causes; correcting deficiencies; mitigation strategies; standardized format for reports; documenting an incident with appropriate details; and retention of the record.

### **RM 132- OSHA COMPLIANCE SURVEY PART I**

This class covers 1910 general industry regulatory standards.

### **RM 133- OSHA COMPLIANCE SURVEY PART I**

This class covers 1926 construction industry regulatory standards.

### **RM 232- JOB HAZARD ANALYSIS**

This class covers identifying hazardous tasks in the performance of each job; prevention; and identifying proper policies, procedures, tools and equipment for specific jobs to prevent accidents and loss.

### **RM 244- LOSS PREVENTION MANAGEMENT**

This class will explore techniques for identifying loss potential/exposures; identifying trends as forecasting tool; and mitigation strategies to reduce and eliminate exposure.

### **RM 255- TRAINING THE RISK MANAGEMENT TRAINER**

This class explores the unique perspective of the adult learner and effective techniques for more meaningful learning to allow the Risk Management Trainer to train staff in important issues for the entity.

## COUNTY SHERIFF

### **SH 101- ROLES AND RESPONSIBILITIES OF THE NM SHERIFFS**

This class covers the roles and responsibilities of the NM County Sheriff's Office and what to avoid: This Ain't Mayberry, Sheriff! Nothin' but the facts.

## COUNTY TREASURY OFFICIAL (Treasurer, etc.)

### **TO 100–ROLES & RESPONSIBILITIES OF THE ASSESSORS & TREASURERS OFFICES**

This class is designed to heighten awareness among the three offices to improve their professional interactions. The legal definition of each office will be reviewed, as well as roles and responsibilities of each office, including tax roll timeliness, tax roll corrections, tax rates, warrants, abstracts, mobile home issues and recording issues.

### **TO 101–RESOURCES FOR TREASURY OFFICIALS**

This class will explore a variety of resources available to NM County Treasurers including online resources (state government, federal government, financial organizations; educational & commercial sources), magazines and associations to aide in successful operations of offices.

### **TO 102–MORTGAGE COMPANY PROCESSING**

This class will define the Treasurer's legal responsibility to provide information, plus the responsibility of the taxpayer and the mortgage company. It will also cover electronic processing, working with the IT department, how to put taxes in suspension, what the billing and receipting procedures and deadlines are, and tips on discerning public vs. private information.

### **TO 103–BANKRUPTCY ISSUES**

This class will explore the different types of bankruptcy and what each type means to the Treasurer (Chapters 7, 11, 13: What are the differences?). The class will examine the litigation process and review proper court vocabulary. You will learn how to conduct a search for bankruptcy filings, how to file a proof of claim, and the role of the trustee in relation to the County Treasurer's office.

### **TO 105–REAL PROPERTY COLLECTIONS**

This class reviews the critical dates important to the collection calendar including first half due, second half due, notice of valuation, last day to claim exemptions, protest deadline, lien placement and delinquency, as well as notices, interest and penalty, tax bills, procedures for auction, mobile home collections, credit card payments and convenience fees.

### **TO 106–RFP'S, CONTRACTS, & DEPOSITORY SERVICES FOR THE COUNTY TREASURER'S OFFICE**

This class discusses RFP's and contracts and the need for each; negotiating and constructing contracts; bidding and when to merge the RFP with other contracts; depository contract objectives and policies; financial advisor contracts, selection and monitoring; balance reporting; ACH payments; lockbox agreements; and collateral agreements.

### **TO 202--TREASURY OFFICE REPORTING REQUIREMENTS**

This class covers the basics regarding investment accounting and reporting, state mandated reporting requirements, records retention, interest allocation reports, confiscated assets, 10-year audit, monthly treasurers' reports, delinquent property tax reports, and mobile home lien reports.

### **TO 203--CASH MANAGEMENT & INVESTMENT POLICY FOR TREASURY OFFICES**

This class presents payment types, cash flow, forecasting, sweep accounts; overnight repurchase contracts, money market funds, and investment policy building.

### **TO 204- MANAGING INVESTMENTS FOR TREASURERS (PRE-REQ TO 203)**

This class will review the guidelines for investing county funds including investment management objectives, investment portfolio management, elements involved in trading, understanding how much collateral is needed, collateral and FDIC insurance, when to buy and sell bonds and what type, importance of laddering investments, when should money be pulled out of investments, how much should be invested versus cash flow for operating expenses, and how to build an investment policy for your entity.

### **TO 205- FUNDAMENTALS OF BONDING ISSUES**

This class covers the outline of bond election plans and procedures, the role of finance team members, and the importance of documentation.

**NOTE:** As of 2012, classes **TO 104 & TO 110** are no longer offered. Anyone having taken one of these classes may use it as an elective. The content of each has been incorporated into other classes.

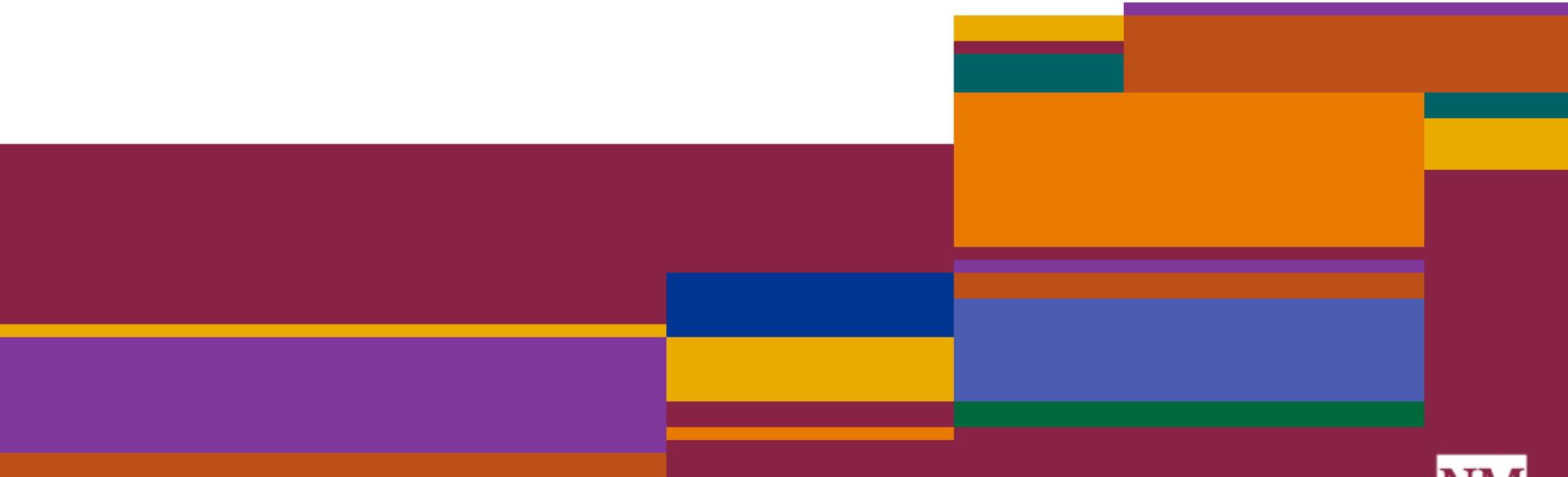
For curriculum specifics please see the checklists available on our website at [nmedge.nmsu.edu](http://nmedge.nmsu.edu) where you can also find our Core & Elective Class Catalogue.

For more information contact **The NM EDGE** at 505 424 0744 or 575 646 5424 or  
[nmedge@nmsu.edu](mailto:nmedge@nmsu.edu)

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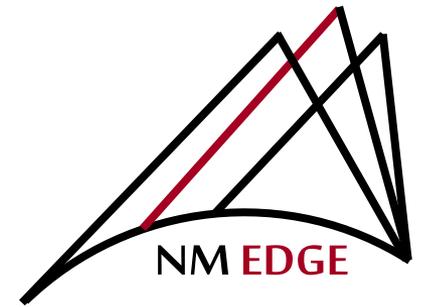
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“Education keeps our office learning new and improved ways to serve our internal and external customers. Learning and understanding what government is really about, helps us make government more successful and effective.”

**Karen Robinson, CPO**, Eddy County Assessor

“NM EDGE County College is a great opportunity for county elected officials and employees to advance their skills and knowledge in areas that pertain to county government, while obtaining a valuable certification. I strongly encourage all counties to support and participate in this excellent certification program. The minimal cost is funds very well spent!”

**Lance A. Pyle, CPO**, Curry County Manager

“For each and every class that I have taken, I have brought back the information that I have learned and have been able to put it to use within my job.”

**Tim Spinks, CPS**, McKinley County Risk Manager

“NM EDGE County College has added a whole new avenue to me to obtain training for myself and my staff that is offered nowhere else! “

**Grace Gonzalez, CPO, NMCTO**  
Otero County Treasurer



“The CPM program has equipped me with a management toolbox full of practical, directly applicable, techniques that help me to be an organized and effective manager.”

**Will Ticknor, CPM**

Director of Museums, City of Las Cruces



## The NM **EDGE**

Bringing you

**The New Mexico  
Certified Public Manager® Program  
(NM CPM)**

**The Certified Advocate in Public  
Ethics Program (CAPE)**

**&**

**The Original County College**

The **NM EDGE** is a collaborative program of NMSU’s **Cooperative Extension Service** with valuable input from the following strategic and supportive partners:

- NM Association of Counties**
- NMSU’s Department of Government**
- NM State Personnel Office**
- Daniels Fund NM Ethics Initiative**
- NM Municipal League**

Contact The **NM EDGE**

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505-424-0744 (Santa Fe)  
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**Better Government Through Education**

## The NM EDGE

**Education Designed to Generate Excellence in the Public Sector**

### NM CPM

The NM Certified Public Manager® Program (NM CPM) is the feature program of the NM EDGE. The NM CPM is divided into three distinct and progressive levels.

The first level is the **NM Certified Public Official** (NM CPO).

The second level is the **NM Certified Public Supervisor** (NM CPS).

The top level is the **NM Certified Public Manager®** (NM CPM).

Each of these certifications offer classes from the core NM CPM curriculum which covers information in seven educational tracks. Each of these certifications builds on the previous level towards completion of the NM CPM.

### National Recognition

The Certified Public Manager® Program (CPM) is a nationally recognized professional development program for public sector employees, supervisors, managers and elected officials.

The National CPM Consortium establishes accreditation standards and monitors member programs. Only accredited programs are authorized to award the CPM designation. The NM EDGE offers the only CPM program in New Mexico having earned accreditation in October of 2011.

### The Original County College

NM EDGE's County College offers certification programs specific to NM County Offices such as:

- NM Assessment Officers (NMCPAO)
- NM County Clerks (NMCCCL)
- NM County Commissioners (NMCCC)
- NM County Treasurers (NMCTO)
- NM Geographic Information Systems (NMGISS)
- NM County Health Professional (NMCCCHCP)
- NM Jail Administrators & Staff (NMJCS, NMJCP)
- NM Risk Managers (NMCRMP)

Additional programs under development.

### Core Curriculum

Each class is three hours and provides measurable learning results through pre- and post testing and in-class practice engaging the material. Educational topics are divided into seven areas of study called tracks.

- **Track I:** Knowing Your Government
- **Track II:** Management & Leadership
- **Track III:** Human Resources
- **Track IV:** Budgeting
- **Track V:** Communication
- **Track VI:** Information Technology
- **Track VII:** Conducting Research

### Return on Your Investment



The NM CPM program offers many benefits to participants, their organization, department, and their public constituents.

These include:

- Better government through education
- Increased efficiency and effectiveness in intergovernmental networks and communication
- Increased personal effectiveness and innovative problem solving
- Heightened quality in public service.
- Eligibility for membership in the American Academy of Certified Public Managers
- Enhanced personal leadership strengths

The NM CPM curriculum is a natural fit for all public managers wanting to pursue continuing education that includes national recognition.



### What Your Peers Have to Say

“Through the NM EDGE CPM program, I have come to understand government better and I have learned to make better decisions, and to generally be more effective. By developing stronger leadership skills through these classes I have been able to improve personally as well as professionally.”

**Judy Pressett, CPM**, Eddy County Deed Analyst

“Through this program I have been able to improve my work performance and enhance my professional skills. I am now better able to apply the best practices of management to my supervisory role as warden of the Lea County Detention Center in a number of different capacities I never assumed possible.”

**Jann Gartman, CPM**

Lea County Detention Center Warden

“The knowledge obtained by attending the NM EDGE CPM classes has empowered me to hire the best employees, prepare a sound budget and run the Colfax County Clerk's Office in a professional manner to better serve the constituents of Colfax County.”

**Rayetta Trujillo, CPM**, Colfax County Clerk

“I feel I am using the knowledge I learned from the NM EDGE CPM program in every aspect of my job on a daily basis. When we apply to our work the information gained from the seven educational tracks we create a more ethical and productive work environment”

**Kiki Arellano, CPM**, San Miguel County Human Resource Manager



**The NM EDGE County College**  
**A Program of Cooperative Extension Service**  
**with the New Mexico Association of Counties**

**Presents**

**The**  
**New Mexico**  
**County**  
**Commissioner**  
**Handbook**

**November 2012 Edition**





**THE NEW MEXICO COUNTY COMMISSIONER  
A Reference Handbook  
And Practical Guide**

**November 2012  
18<sup>th</sup> Revised Edition**

Revised by  
**Members of the  
New Mexico County Commissioner Curriculum Committee**

Edited & Produced by  
**The NM EDGE**  
**A Program of the New Mexico Cooperative Extension Service**  
New Mexico State University  
**Dr. Jon Boren, Associate Dean and CES Director**  
**Mary C. DeLorenzo, NM EDGE Program Director**

Partial funding from the  
**New Mexico Association of Counties**  
**Paul Gutierrez, Executive Director**

**New Mexico County Commissioner Handbook**  
**A Reference Handbook**  
**And Practical Guide**

for the Elected and the Electorate

1st Edition  
James Grieshop  
August 1975

1<sup>st</sup> Revised Edition  
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Jennifer Hynes  
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Chadelle Henry  
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Lori G. Osborn  
Lisa L. Warren  
November 2004

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Tasia Young  
Lori Osborn  
December 2006

16<sup>th</sup> Revised Edition  
Tasia Young  
Tito Chavez  
December 2008

17<sup>th</sup> Revised Edition  
Tasia Young  
Dave Pato  
January 2011

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This Handbook  
was originally developed  
through funding under  
Title I of the Higher Education  
Act of 1965

This book is intended as a  
practical guide.  
Consult your County Attorney  
for matters specific to your  
county or to the duties of your  
office.

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**& OTHER SPECIALIZED OFFICES OF A COUNTY**
  
- **CERTIFIED ADVOCATE FOR PUBLIC ETHICS (CAPE)**

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**BARBARA URIOSTE-LOPEZ, OPERATIONS DIRECTOR**  
**TASIA YOUNG, ACADEMIC ADVISOR**



## FORWARD

As Associate Dean and Director of New Mexico Cooperative Extension Service, I have had the pleasure of working with the New Mexico Association of Counties (NMAC) on a number of projects—none more important than bringing education and resources to New Mexico’s 33 counties. We appreciate the vision of the New Mexico Association of Counties leadership in pursuing a collaboration with Cooperative Extension Service to create and help sustain the NM EDGE County College.

NMSU’s Cooperative Extension Service delivers the land-grant mission to the people through a century of service to New Mexico residents. Today, Cooperative Extension Service continues to deliver education deeply rooted in tradition, innovation and collaboration.

In addition to the vital role county agents and staff play in providing non-formal, educational programs in every community around the state, we are proud of the evolving role of NM EDGE in pursuit of its goal of *Better Government through Education* and its statewide reach. Building on the foundation of County College, New Mexico Association of Counties and Cooperative Extension Service joined together to offer high quality, meaningful and accessible education at affordable prices and later expanded to include the nationally recognized Certified Public Manager Program. NM EDGE continues to work closely with NMAC to bring you county-specific classes and resources.

First created and published by Cooperative Extension Service in 1975, this handbook is periodically updated and revised to assure that it remains relevant and factual. This year in particular, the handbook was revised to include a more direct tie to the classes being taught in the New Mexico County Commissioner curriculum so that the information is consistent and supportive of both handbook and classes.

We hope you will find this handbook a useful and practical resource in your role as New Mexico County Commissioner. We also encourage you to give us feedback on ways to make this handbook even more helpful. We sincerely thank you for your service to New Mexico County Government.

Jon C. Boren, Associate Dean and Director  
New Mexico Cooperative Extension Service



# TABLE OF CONTENTS

|  |  |      |          |
|--|--|------|----------|
| Chapter 1                                | Knowing Your Government .....                                    | Page | 1        |
| Chapter 2                                | Knowing the Law .....  | Page | 11       |
| Chapter 3                                | Ethics & Professionalism in the Public Sector .....              | Page | 15       |
| Chapter 4                                | Roles & Responsibilities of the NM County Commissioner .....     | Page | 21       |
| Chapter 5                                | Meetings of the Board of County Commissioners .....              | Page | 27       |
| Chapter 6                                | Working with Other Officials & Boards .....                      | Page | 33       |
| Chapter 7                                | Employment Law for Policy Makers .....                           | Page | 37       |
| Chapter 8                                | Sources & Uses of Public Finance .....                           | Page | 47       |
| Chapter 9                                | Financial Administration .....                                   | Page | 57       |
| Chapter 10                               | Services & Functions of the County: County Property .....        | Page | 67       |
| Chapter 11                               | Services & Functions: Roads, Highways, Bridges, Airports .....   | Page | 71       |
| Chapter 12                               | Services & Functions of the County: Public Works .....           | Page | 79       |
| Chapter 13                               | Services & Functions of the County: Health & Public Safety ..... | Page | 83       |
| Chapter 14                               | Services & Functions of the County: Planning & Zoning .....      | Page | 93       |
| Chapter 15                               | Services & Functions of the County: Elections .....              | Page | 97       |
| Chapter 16                               | Resources (Websites & Publications) .....                        | Page | 103      |
| Appendices                               |  |      |          |
| Appendix A                               | Map of NM Counties .....   | Page | 105      |
| Appendix B                               | NM County Classifications .....                                  | Page | 107      |
| Appendix C                               | Additional Duties of the BOCC .....                              | Page | 109      |
| Appendix D                               | General Calendar for a BOCC .....                                | Page | 117      |
| Glossary of Common Terms and Words ..... |  |      | Page 123 |



# CHAPTER 1

## KNOWING YOUR GOVERNMENT

Revised 2012 by NM EDGE Assistant Director Marc Legarreta, MPA

In the United States and New Mexico, the respective federal constitution and state constitution are both the framework and the basis for the structure of government and the creation of all law.

While the purpose of this chapter and this handbook is to provide the reader with a better understanding of county government and how their elected office functions within the State of New Mexico, it is similarly important to understand the structure of the federal government and how its history and political influence has shaped the face of modern-day New Mexico.

### 1.1 The US Constitution: Establishing a Federal System of Government

Following the American separation from Great Britain, the original American Colonies formed a loosely aligned union under the *Articles of Confederation*, which had a weak central government; most power remained with the states. While the central government (or federal government) was responsible for handling foreign affairs and the business transactions between the states, it lacked the requisite resources and revenue (taxation power) to conduct its work.

With a number of inconsistent practices and disputes between the states and the inability of the bankrupt federal government to take action, Congress recognized the need to rethink and restructure the central government and thus established a Constitutional Convention to address and revise the weaknesses within the original governing document. However, what resulted was completely the opposite.

When the Constitutional Convention completed its work in September of 1787, the delegates from each state had created a completely new document, which radically changed the role of the federal government and its relationship with the states. Ratified (or placed into law) in 1788, the U.S Constitution established a government based on two essential principles:

1. *Separation of Powers* – Rather than power centralized into one body or institution, the framers of the Constitution saw a need to divide power between three independent but interrelated branches: The Legislative (Congress), charged with creating laws; The Executive (President), charged with approving laws passed by Congress and executing those laws; and the Judicial (the courts), charged with interpreting law and in the process establishing policy.
2. *Checks & Balances* – While power is shared among the three branches, no single branch can act alone: there is a check on the execution of their power. For example, while Congress makes laws (with the approval of two separate houses), the President is responsible for signing such legislation into law or not (veto). In turn, the judiciary, as

part of a common law system, has the ability to interpret the law when it is questioned in court.

While the Framers of the Constitution created a new, stronger central government, they also left intact the original state governments, creating a system of government we have come to know as *Federalism*.

In a federal system, power is distributed between the central government and the state governments. Although the principle of Separation of Powers is applied to the shared authority among the three branches of the federal government, it is similarly applied to the shared power among the central government and the states.

For a majority of the Framers, key to the creation of the new constitution (and the new American nation for that matter), was a reverence for individual freedom. It was their intention to see that no single government (federal or state) or part of government could impede on individual liberties and rights. That is why some believed that it was important to outline, implicitly, individual rights in the original document.

Recognizing this matter, the states, while in the process of approving the Constitution, held that a *Bill of Rights* be added or amended to the document. Such a change was received and was one of the first actions taken by the First U.S. Congress. As a result, in 1791, the Bill of Rights (the first 10 amendments to the Constitution) was ratified.

While each of the first nine amendments to the Constitution are important in their own right, in this instance, the focus is on the 10<sup>th</sup>, which further highlights the balance of power between the federal government and the states:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

In this very statement, it holds that what the federal government is not required to do by the Constitution is left to each state. However, we know that Federalism, even in its early days, is much more complex, and there are often times no clear boundaries.

## **1.2 The Role of State & Federal Government**

The concept of Federalism is often compared to marble cake because of how the roles of state government and federal government often intertwine. While some may hold that the Tenth Amendment of the US Constitution clearly suggests that the powers not provided to the federal government are left to the several states, others would point to the US Constitution's Sixth Article:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United

States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

This Article, often referred to as the *Supremacy Clause*, states that the laws of the Federal Government are supreme in their authority and trump similar decisions made by state governments. As a result of these two competing philosophies or views of how Federalism ought to work, we have witnessed an evolution or experiment in Federalism over the past several hundred years. It is a process wherein America has tried to answer the fundamental question of what the proper balance of power and responsibility is between the states and the federal government.

For example, we know that the US Constitution does not explicitly task the federal government with the responsibility of education, roads or the administration of a number of social programs. Yet the federal government provides most funding to states for such programs and initiatives.

It is a question that we continue to struggle with answering, and responses have changed from time to time. The federal government of today does not mirror the federal government of the 1920s. Government has responded to changes in society and conformed to the needs of a modern America.

### **1.3 The New Mexico State Constitution**

Like the US Constitution, the Constitution of the State of New Mexico was born in a place and time where there was little trust and great suspicion of government. Despite several earlier attempts at statehood, it was not until 1910 that Congress authorized the territorial government to write a state constitution in the process of becoming a part of the Union.

Elected on a party ballot, 100 delegates from around the state were selected to serve in a Constitutional Convention to last no longer than 60 days. The delegates came from a variety of professions with lawyers, bankers, ranchers, farmers, doctors, newspaper editors and merchants represented. An overwhelming majority of the delegates were *Old Guard Republicans* who had many staked financial interests in the state. There were few Democrats and native-born Hispanics.

While the Old Guard knew that they had a majority in convention and could essentially create any document they desired, there were some key considerations that they had to keep in mind:

- They had to create a constitution that would be acceptable to all voters at that time, which included many Hispanics, and
- The document also had to be satisfactory to the conservative president, Howard Taft, and a Congress suspicious of a state with a diverse population and an unknown terrain.

The Old Guard worked to create a constitution to establish a system of government that would be favorable to corporate interests and their personal investments in the state. They were also highly apprehensive of government in general and knew that they wanted to put in place a somewhat weak system, where there would be little governmental influence.

While they created a structure of government that is very similar to that of the Federal Government (separation of powers and checks & balances), there are some key differences, in that it:

- Establishes a fragmented executive: Rather than executive power being vested entirely to the Governor, power is shared among several elected executive offices.
- To ensure that the document would remain unchanged in key aspects, the Old Guard established an intricate standard to revise key pieces of the document, which have come to be known as the *Unamendables*.

The Unamendables are four sections of the state constitution that cannot be changed without extraordinary majorities for proposing and ratifying an amendment. They are:

- 1 and 3 of Article VII, Elective Franchise  
Prohibiting certain citizenship rights from being denied on account of religion, race, language or color, or inability to speak, read or write English or Spanish;
- 8 and 10 of Article XII, Education  
Providing for bilingual English/Spanish training of teachers, prohibiting racial segregation in education and guaranteeing the right of children of Spanish descent to an equal education.

Passage of a proposed amendment to change any Unamendable section of the New Mexico Constitution requires:

- Approval of 3/4 (75%) of the members elected to each house of the State Legislature, and
- Ratification by at least 3/4 of the electors in the state voting on the question.

Unlike the US Constitution, the New Mexico State Constitution is significantly longer and constantly changing. If we were to compare the original US Constitution to the US Constitution of today, several additions, clarifications and a few changes to original text would be apparent, but the document would ultimately look the same. The opposite is true for the State of New Mexico Constitution, which has been amended, grown and changed several times.

Despite the vast differences between the US Constitution and that of the State of New Mexico, each document serves an importance purpose in the lives of the people it serves and a basis for representative government.

## **1.4 County Government in New Mexico**

Unlike state government or the federal government, counties are not independent organizations that function without consideration. Counties are entities created by the state to serve as administrative units or extensions of the state on a local basis. Initially, counties had a general purpose of assessing and collecting property taxes for the state, enforcing laws, running elections, managing records and maintaining the roads. While the County continues to fulfill all of these responsibilities, county government has transformed into a vital resource for the constituencies they have been created to serve.

The State Constitution's 10<sup>th</sup> Article has three provisions that limit the State Legislature's power over counties. They include:

- A provision that outlines elections and terms of office for county officials (Section 2)
- A provision which states that a county seat can be removed with the approval of 3/5 of the voters in a given county (Section 3), and
- A provision which prevents the legislature from passing special laws that only affect one or a few counties (Section 24).

Beyond these three items, the State is free to exercise its power over the County. While there are many laws and common practices that define how the counties function, there are essentially three (3) vital roles that the County plays in New Mexico (as outlined by Garcia, Hain, Clair & Seckler, 2006):

- They serve as an administrative unit of the state
- They provide and maintain vital services for their constituents, especially those living in non-urban areas; and
- They provide innovative and entrepreneurial leadership that will help to further enhance the lives of those they serve.

## **1.5 Organization of County Government**

The form of organization for County Government in New Mexico is established by the State Constitution and law. The powers of the County as a political and corporate entity are exercised by a *Board of County Commissioners* (BOCC) (Section 4-38-1 New Mexico Statutes Annotated). The BOCC has broad authority, including adopting the annual budget, approving tax levies, and enacting ordinances to provide for the health, safety, welfare and prosperity and morals of the community. In addition, the BOCC has significant appointive, administrative and regulatory powers.

While the BOCC serves as the governing body of the County, they must also cooperatively share their power with other elected county officials in a number of different aspects. These offices

include the Assessor, Clerk, Sherriff, Surveyor, Treasurer and Probate Judge. Additionally, New Mexico counties also play a role in housing a district attorney and a district judge or judges. Each office is discussed in brevity below:

### **1.6 County Assessor**

In general, the Assessor is responsible for the proper and timely assessment of most property subject to valuation for taxation purposes within the County (§4-39-2 through §4-39-6 NMSA). In addition, the Assessor is responsible for mailing notices of tax liability within their jurisdiction. Though serving in an elected position, the Assessor works cooperatively with the Taxation & Revenue Department.

### **1.7 County Clerk**

The County Clerk serves an important role for the BOCC and the state. The County Clerk is the ex officio Clerk of the BOCC (§4-40-3 through 8 NMSA) and, therefore, the Clerk must attend all sessions of the BOCC, though a surrogate may be sent in their place. In this role, the Clerk is responsible for recording all action taken by the BOCC and any supporting materials. The Clerk is also mandated by statute to subscribe to and maintain files of all newspapers published in the County (§4-40-7, 8 NMSA). Additionally, the Clerk's office receives a multitude of documents from the public for filing and recording, such as birth certificates, marriage certificates and death certificates, which is a service to the state.

### **1.8 County Sheriff**

The elected County Sheriff is the principal preserver of the peace in the County and is charged with the suppression of assaults and batteries, and the apprehension and commitment to jail of all offenders violating criminal state laws or county ordinances (§4-41-2 NMSA).

### **1.9 County Surveyor**

In all counties, except Santa Fe County, the surveyor is no longer elected. Private surveyors, engineering firms, or the county road or public works department now perform these functions (§4-42-11 NMSA). The office of the County Surveyor was created in 1891 (§4-42-1 through 15 NMSA) to conduct official surveys, plats and maps within the County. Historically, all surveying of county roads and bridges was performed by the County Surveyor who was, by virtue of office, mandated to be one of the reviewers in establishing new roads or bridges.

### **1.10 County Treasurer**

The County Treasurer is responsible for keeping accounts of all county funds received and disbursed by the various county departments, keeping regular accounts of all checks and warrants drawn, and keeping the books, papers and money pertaining to the office ready for inspection by the BOCC at all times (§4-43-2 NMSA).

### **1.11 Probate Judge**

In 1865, the part-time position of elected Probate Judge was created for each county to help with the settlement of wills and estates (§34-7-1 NMSA). The Probate Judge is not required to be a lawyer, but is required to hold court in the county seat (§34-7-4 NMSA). The County is responsible for housing the Probate Judge and providing additional administrative resources.

### **1.12 District Judge**

There are 13 judicial districts in New Mexico, with one or more District Judges in each district. Districts include two or more counties except for the Second (Bernalillo) and Third (Doña Ana) Judicial Districts, which contain only one. District Judges are charged with presiding over cases of general jurisdiction at the trial level. District Judges hear both criminal and civil cases, and divisions to address specific matters (such as family law) can be created.

Each county is required to provide quarters for the operation of the District Court, including juvenile probation services. The provision of office space includes necessary utilities and maintenance service for the operation and upkeep of District Court facilities (§34-6-24 NMSA).

### **1.13 District Attorney**

While the District Attorney is elected locally, they are an employee of the state and all salaries and expenses, except office space, which is the responsibility of the County, are paid from state funds appropriated to the District Attorney (§36-1-8 NMSA). The District Attorney is charged with prosecuting and defending criminal and civil cases in which the State or county is a party, or may be interested in all courts of record (i.e., magistrate courts are not “courts of record”) within the district. The District Attorney is also authorized and required by law to represent the BOCC upon request, to advise all county and state officers whenever requested, and to represent any county in the district in all civil cases in which the County may be concerned in the Supreme Court or Court of Appeals, except in suits brought in the name of the State (§36-1-18 NMSA).

For more information on each of the elected offices of New Mexico County Assessor, County Clerk, County Commissioner, County Sheriff or County Treasurer, please see that specific *NM Elected County Official Handbook* offered by the NM EDGE.

### **1.14 Tribal Governments in New Mexico**

Written by Fred Harris and used with permission

Approximately 2.5 million Native Americans are found in over 500 groups known as tribes, nations, pueblos or native villages.

- Around 10% of the two million people who live in New Mexico are Native Americans.
- Reservations in New Mexico include:
  - 1) Mescalero Apaches

- 2) Jicarilla Apaches
- 3) Part of the Navajo reservation
- 4) Nineteen Pueblos

- Each of the nineteen New Mexico pueblos is a federally recognized Indian tribe.
- The Navajo tribe is the largest in the United States.

Reservations arose when Congress “reserved” or set aside certain lands for Native Americans.

- American Indian tribes are not, as some think, “foreign nations.” For example, they can’t make treaties with foreign governments.
- The federal government has exclusive power to deal with federal and tribal matters, unless it delegates that power to the states – which it rarely does.
- Upon becoming a state, New Mexico adopted a constitutional provision (Article XXI, Section 2) giving up taxing jurisdiction and other authority on Indian reservations.
- Legally, a pueblo and a reservation is the same thing. “Pueblo” is a Spanish word for village.
- New Mexico was the first in the nation to create a Bureau of Indian Affairs and a Cabinet Level appointment made by the NM Governor.

For many years federal policy sought to assimilate Native Americans. It was felt that Native Americans should become like everyone else.

- Since the 1960’s, however, federal policy has changed. Preserving the heritage of Native Americans is encouraged.

Native Americans, in addition to being citizens of the United States and the state they live in, are also citizens of the tribes of which they are enrolled as members. Each tribe has the authority to determine who is eligible to be a member.

- Dual citizenship means that Native Americans are entitled to vote in all elections plus tribal elections.
- Native Americans have become active in state and national politics. They are represented in the state legislature. Indian casinos have become a significant source of campaign funds.

When Congress created the reservations, the federal government assumed responsibility for providing certain needs such as health and education benefits.

- But Native Americans do not receive individual payments, as some people think.
- Just as it does for state and local governments, the federal government makes grants and loans to tribes and tribal programs.

- For example, when a Native American attends a public school, the federal government makes a contribution for this purpose to the local school district. This is similar to a federal contribution for children who live on military bases and attend public schools.

Do tribal members have the same constitutional rights as the rest of the country?

- Almost. The Bill of Rights acts as restraint on federal officers. The Fourteenth Amendment acts as restraint on state and local officers. But these amendments do not apply to tribal officials.
- To remedy this, Congress passed the Indian Civil Rights Act in 1968 to put similar restraints on tribal officers. But there are exceptions. For example, an Indian tribe can establish a religion, of whatever kind, although it cannot prohibit other religions. A Pueblo may choose to have a Catholic priest “bless the canes” (a traditional symbol of authority) for an inauguration of tribal officials.
- Nor is a tribe required to elect its officials. In fact, the majority of pueblos choose their leaders in the traditional (non-elective) way.

For more information on Tribal Government in New Mexico see *Governing New Mexico: "American Indians and tribal governments"/ Chapter Written by Fred R. Harris and LaDonna Harris, UNM Press, 1994.*

## Notes

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## CHAPTER 2

### KNOWING THE LAW

Revised 2012 by NM EDGE Assistant Director Marc Legarreta, MPA

In order to understand law in the United States and New Mexico, we must first understand the sources of law. Generally, there are two sources of law: primary and secondary. *Primary sources* of law are laws created by an established body of government and have the potential to impact the citizenry. *Secondary sources* of law are essentially background resources that do not have the weight of law but help us to understand primary law.

Here are some examples of each:

- **Primary Sources of Law:** Constitutions, Statutes (state or federal laws), ordinances (local government laws), administrative regulations or executive orders (by the President, Governor or a cabinet-level secretary), and court decisions (rulings made by the courts that interpret or clarify the law)
- **Secondary Sources of Law:** Opinions issued by the Attorney General, legal publications and dissenting court opinions (arguments against court rulings)

While it is always good to know about secondary sources of law, it is of greater importance, for the purpose this text, to understand our primary sources of law and who has the authority to make such laws.

#### 2.1 The Power to Make Law

In general, it is Congress and the New Mexico State Legislature who have the authority to make law in New Mexico. However, those laws (as legislation) must be signed into effect by the President or the Governor. Such laws are often the subject of dispute and interpretation and that is when the court systems, both federal and state, have the ability to further define the law and thus make policy through precedence.

While the federal government does have the ability to make laws that affect all states and the laws that they make individually, not all federal laws are applicable in each state. Conversely, laws made in New Mexico only affect New Mexico. Nonetheless, the law in New Mexico can affect how the federal government operates within the state.

#### 2.2 The Lawmaking Process

Although both Congress and the New Mexico State Legislature follow ultra-specific procedures in the lawmaking process, all laws are made following a rather general process (model adaptation from Kraft & Furlong, 2007):

- **Agenda Setting:** This is where an issue, problem or desired change is presented before a policy making body such as the State Legislature or the Board of County Commissioners

(BOCC). The influences at this point in time are key. The public, policymakers (lawmakers), current events or legal mandates (laws about law making) all play a role in determining what becomes part of the agenda.

- **Policy Formulation:** Once there is a specific issue or item being discussed by a policy making body, policymakers must now discuss, create and outline how they will address a particular issue. This process occurs in a political system and there are often clashes of values.
- **Policy Legitimation:** During the process of formulating policy, lawmakers (policymakers) must also mobilize support for the issues that they are addressing and how they plan to achieve their goals. This is the politicking of the process. Not everyone or every policy will prevail. This part of the process often requires compromise and change to a policy in order for it to be adopted.
- **Policy Implementation:** Once a policy has gone through a very complex and lengthy process of approval and adoption (very few items make it this far), it is time to put it into place. Some laws take effect immediately, while others are implemented at a later time or slowly phased into place.
- **Policy Evaluation:** While it is becoming more and more common for a law to require revision within a given period of time, not all laws require future review. However, most laws, should they need to be modified and adapted, will require evaluation. This part of the circular policymaking process is often left to professionals (such as the Legislative Council Service) and results are presented to the policymaking body.
- **Policy Change:** If a law or policy requires change, it will have to reenter the competitive process as listed above. It will again have to compete for a place on the agenda and be walked through the complexities of the political process.

For specific details on the lawmaking processes in New Mexico and in Congress, please see the following resources:

- Federal lawmaking: “How Our Laws are Made,” Revised and Updated in 2007, by John V. Sullivan, Parliamentarian, U.S. House of Representatives  
<http://thomas.loc.gov/home/lawsmade.toc.html>
- State law making: How a Bill Becomes Law, by Allen Maury (nmedge.nmsu.edu publications)

### **2.3 Other Law Making Bodies**

Although legislative bodies are typically regarded as the sole creators of law in America, it is important to keep in mind that it may not necessarily be the case. Administrative decisions and rules set by governmental units also have the effect of law. For example, while the BOCC creates

policy for Human Resources within a given county, the Board cannot make a law for every possible HR related issue. Rather, the Human Resources Department, under direction of the County Manager, tends to be provided with a general law that they have to interpret and apply as they believe was expressed by the BOCC. While their decisions can be overturned by the BOCC (or another governing body, such as the courts), most administrative decisions or policies have the effect of law.

## **2.4 The Impact of Laws**

While counties also follow the policymaking process as a lawmaking entity, it is important to also watch how such a process plays out at both the federal and state level. While laws have the ability to impact a number of groups and stakeholders, laws at the state and federal level have a significant impact on local government.

Local governments, including counties, are often delegated or mandated to carry out very specific tasks and duties. Generally, there are two types of mandates that can be placed upon counties:

- *Funded Mandates*: If the State Legislature were to pass a law requiring counties to provide immunizations to all those who present themselves, and provided the funding and/or requisite resources to purchase the vaccines and deliver such a service, the County has been given a funded mandate.
- *Unfunded Mandates*: On the other hand, if the State were to require the County to provide immunizations, but provided zero funding and/or resources beyond their general appropriations that would be an unfunded mandate. The County, through the BOCC, would be forced to find a way to pay for such a requirement.

In an effort to prevent the Federal Government from placing unfunded burdens on counties, the *Unfunded Mandates Reform Act of 1995* (UMRA) was established to curb such a practice. Under this act, Congress and federal agencies are required to identify and evaluate mandates placed on other governmental entities.

In New Mexico, Article X, Section 8 of the State Constitution holds that the state government cannot place mandates on local governments unless requisite resources or funding are provided:

A state rule or regulation mandating any county or city to engage in any new activity, to provide any new service or to increase any current level of activity or to provide any service beyond that required by existing law, shall not have the force of law, unless, or until, the state provides sufficient new funding or a means of new funding to the County or city to pay the cost of performing the mandated activity or service for the period of time during which the activity or service is required to be performed (as added November 6, 1984.)

Despite these efforts, unfunded mandates are still handed down to local government. However, through effective intergovernmental relations and communication, there are things that can be done to curb these types of directives.

## **2.5 Encouraging Public Involvement in Policy Making & Transparency**

While there is an expectation that lawmakers understand and know the needs of their constituency, it is impossible to expect that representatives in government are all-knowing. That is why it is critical for policymakers to engage the public in all decisions they make. Inclusive government is vital to the preservation of a democratic society. To aid public servants in their inclusive efforts, there are two key laws that all elected officials should know.

The first is the *New Mexico Open Meetings Act* (OMA), which was established to ensure that the public has every opportunity to involve themselves in the policy making process. The purpose of this Act holds that:

- Representative government depends upon an informed electorate
- All persons are entitled to the greatest possible information regarding affairs of government and the official acts of public officers and employees
- Providing such information is an essential function of government and an integral part of the routine duties of public officers and employees (Section 14-2-5 New Mexico Statutes Annotated)

The act provides explanations for what types of meetings fall under the law, public notice requirements for meetings, and proper issuance of agendas, minutes, and closed meetings. Also covered in the Act are remedies, penalties, and exceptions to the law.

The second is the *Inspection of Public Records Act* (IPRA), which serves as New Mexico's version of the federal Freedom of Information Act and is designed to provide the public with access to virtually all public records. Such a law is intended to see that all work and action of the government is visible to the public. Of course, there are some limited restrictions on what is open.

For more information on both of these laws, please see the New Mexico Attorney General's compliance guides. These guides aid local governmental agencies in meeting each respective act's requirements.

The OMA Compliance Guide and a Compliance Checklist are easily downloaded from the NM Attorney General's Office website, with other documents, at <http://www.nmag.gov/Publications/>

For a video that explains both New Mexico's OMA and the IPRA, please see <http://www.nmag.gov/video/>

## CHAPTER 3

### ETHICS AND PROFESSIONALISM IN THE PUBLIC SECTOR

Revised 2012 by Paul Biderman (GCA) & Diane Prindeville (CAPE)

The New Mexico Governmental Conduct Act helps to ensure the public's trust in the honesty of our elected and appointed public officials. When members of the public trust their government to act with integrity, they are more likely to vote, to voice opinions on issues, to resolve disputes through the courts and administrative agencies, to pay their taxes fully and otherwise comply with the law. Their trust in government depends upon the belief that government will keep its promises, give out truthful and complete information, act with transparency, distribute public benefits and burdens fairly, and use resources funded by the public for the benefit of the community. The public's belief in the integrity of their government will be determined entirely by the acts of its elected officials and appointed personnel, from the highest elected officials forging policy, to the thousands of public employees diligently conducting the daily work of government.

In 2011 the Governmental Conduct Act, which had until then applied only to officials of state government, was amended to apply to officers and employees of all political subdivisions of the state and their agencies. The law's expanded coverage makes it crucial that all state and local government officers and employees in New Mexico understand their ethical responsibilities under the Act, as well as the specific prohibitions and limitations that ensure that public officers and employees conduct themselves solely in the interest of the public. To that end, the Attorney General has published a Compliance Guide to explain the provisions of the Act and clarify their application to covered officials and employees. In addition, the Guide will enable members of the public to become more knowledgeable about the standards of conduct the Act requires and assist them in holding their representatives in government accountable to those standards.

The Attorney General's Compliance Guide on the Governmental Conduct Act may be found online at <http://www.nmag.gov/consumer/publications/openmeetingsactcomplianceguide> .

*The remainder of this chapter is based on curricula from the NM Certified Advocate for Public Ethics Program or CAPE, developed for the NM EDGE, which provides elected and appointed officials and government employees across New Mexico with training in leadership and ethics.*

#### **3.1 Why is ethics training important?**

Few things erode public confidence in government as severely as unethical or dishonest leaders. Even the *perception* of immoral or corrupt behavior can be sufficient to harm irreparably an elected official's career. More important, however, is the impact on the larger community. The resulting cynicism and distrust of government, which commonly follow political scandals involving ethics violations, diminish the public trust in our leaders, institutions, and laws. On the

other hand, a Code of Ethics, which (1) reflects both organizational and community values; (2) is clear, accessible, and frequently used for problem-solving; (3) is supported by the organization's leadership; (4) is implemented uniformly; and (5) enforced consistently, can go a long way to promoting ethical behavior.

- Improve fair and respectful treatment of staff, clients and public
- Protect personnel against making inadvertent ethical errors
- Alert personnel to report misconduct by others
- Encourage public service careers
- Preserve public confidence

**3.2 Universal values:** Integrity, fairness, compassion, loyalty, respect, responsibility, trustworthiness

**3.3 Principle-based ethics** provide a “right-and-wrong” standard for behavior. Do what is right, not what is best for you. Principles are universal, used to develop rules across cultures.

Knowing what is ethical is easy, when you are choosing between right versus wrong. It is much more difficult to discern the ethical thing to do when you are choosing between right versus right or wrong versus wrong.

To resolve a conflict, one must decide which principle is more important.

The end does not justify the means. Therefore, even if an action is expected to produce a benefit for 100 people, it cannot justify doing unnecessary or unfair harm to a single person in order to achieve it.

#### **Examples of Ethical Principles**

- Tell the truth / Avoid deception
- Avoid conflicts of interest
- Be transparent / Disclose information that others ought to know
- Be impartial
- Respect the rights of others
- Treat others justly
- Take responsibility for your actions and those of your subordinates
- Maintain your integrity
- Continually improve your abilities
- Share your knowledge, expertise and values

**3.4 How to decide on what principles to follow?** Kant recommends “Act according to those rules that could be universally agreed to by all people.” This is the first form of the famous “Kantian categorical imperative.” Basically, your principles should be the ones that you would like to see everyone follow.

Advantages of following principle-based ethics include increased trust, greater commitment in professional relationships, enhanced cooperation, reduced uncertainty and reduced conflict. A public organization that adheres to its principles in decision making will:

- Fortify its reputation and improve re-election/reappointment chances for leaders and staff
- Be more likely to avoid lawsuits or complaints that cost time, money and energy
- Manage its working relationships more effectively

**Define an “ethical dilemma”** – being faced with two bad choices: A conflict of values

**Tools for resolving ethical dilemmas**

- Seek as much knowledge as possible
- Review ALL the facts
- Remove your emotions
- Be open to all possibilities

**Questions to consider**

What’s at issue?

Be open to all possibilities; put aside your preconceived opinions and emotions.

What are your choices?

Use reasoning to make decisions; evaluate your choices and seek the highest level of goodness.

What are the consequences?

Look at the actions and consequences when making choices.

What are the competing values?

Live by universal rules – Avoid situational ethics.

What are your motives?

Seek the truth, whatever it may be, with as much knowledge as you can obtain.

**A safe approach:** Be concerned not just with the ethics of the act itself, but also with the *appearance* of the act to a fair and reasonable observer.

**Tests of ethical conduct**

- Disclosure test: Have I disclosed what others should know? Have I been transparent with my decisions?

- Professional ethics test: Have I satisfied the ethical requirements recognized by those in my field?
- Intuitive ethics test: Does this feel right?

### **3.5 Create a Decision Making Framework**

- Is it an ethical dilemma / issue?
  - What's wrong personally, interpersonally or socially?
  - Who is hurt by the conflict, the situation or the decision?
  - Will someone's rights, dignity or property be compromised?
- Get the facts
  - What are the relevant facts?
  - What's at stake for whom?
  - Are some stakeholders more vulnerable?
- Identify your options
  - What are your options for acting?
  - Who should be consulted?
  - How would your options be viewed?
- Evaluate your options
  - Which option does the most good and the least harm?
  - Are people's rights and dignity respected?
  - Are people treated fairly?
  - How would your action play in the media?
- Decide!

### **3.6 Sources of ethics rules:**

Laws such as:

- New Mexico Governmental Conduct Act
- Gift Act
- Financial Disclosure Act
- Fraud Against Taxpayers Act
- Political Restrictions
- State and Federal Criminal Statutes
- Agency/local government codes of conduct
- Administrative Rules
- Court decisions
- Attorney General opinions

### 3.7 Respond to official misconduct by public officials

The Governmental Conduct Act requires that you treat your position as a “public trust.” In other words, “use the powers and resources of public office only to advance the public interest and not to obtain personal benefits or pursue private interests.”

- “Full disclosure of real or potential conflicts of interest shall be a guiding principle for determining appropriate conduct,” but one must also avoid the *appearance* of conflicts.
- One must not conduct private business at the office.
- Solicitations and honoraria or gifts given for the performance of public duties are either prohibited or restricted severely.
- Delineates some prohibited political activities but stresses that public officials and public employees must not exploit their position in government for personal financial gain.

#### What to do...

- ✓ If non-criminal violations: Talk to offender – may be unintended
- ✓ If clearly intentional: Report to supervisor, county HR Director, County Manager and/or attorney
- ✓ If criminal violations: Report to supervisor, HR or general counsel of agency. If can't, report to DA, AG, US Attorney
- ✓ There are protections for whistleblowers in statute (§10-16C-1 through 6 NMSA).

### 3.8 The role of leadership in creating an ethical organization is to

- Create clear standards of conduct
- Model compliance
- Inspire staff
- Assess adherence by staff
- Impose consequences, offer recognition

**An effective and meaningful code of conduct** must include the following essential elements: the values and principles of the organization must be stated, the code must be adopted democratically and disseminated throughout the organization, and processes for assessment and enforcement must be developed and exercised. For example, the code must be incorporated into performance reviews, strategic planning sessions, retreat discussions, and periodic reports.

Consequences for non-compliance can include education, peer pressure, progressive discipline and criminal prosecution. Due process requirements must be met.

- The bottom line is you. You decide how you walk the talk.

## Notes

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**CHAPTER 4**  
**ROLES & RESPONSIBILITIES OF THE**  
**NEW MEXICO COUNTY COMMISSIONER**

Revised 2012 by County Attorney Daniel Bryant, Esq.

The Board of County Commissioners (BOCC) consists of three or five elected members, any majority of whom may transact business. Changes to the New Mexico Constitution and legislative changes now allow for five-member boards in every county, if approved at the local level.

**4.1 BOCC as Legislative Body**

In New Mexico, the BOCC is the legislative body of county government. The BOCC has legislative power for:

- budgeting
- taxing
- issuing of bonds
- zoning
- adopting other regulations by ordinance.

The BOCC prepares the county budget and files it with the Department of Finance and Administration (DFA), Local Government Division, by June 1 of each year (Section 6-6-2 New Mexico Statutes Annotated). In order to fund the budget, the BOCC levies a tax on all taxable property in the County; revenues collected [by the County Treasurer] are used for general county purposes, including salaries (§4-38-17 NMSA). All property taxes are set at rates ordered by the DFA (§7-38-34 NMSA). In addition, the BOCC may levy a number of special taxes.

The BOCC may also issue general obligation bonds for certain purposes, such as juvenile detention homes, administrative facilities, athletic facilities, parking structures, landfill systems, airports, detention centers, courthouses, bridges, hospitals, public libraries, facilities to hold county fairs and cultural facilities (§4-49-7 NMSA), and has certain responsibilities in the issuance of general obligation bonds (§6-15-3 through 8 NMSA). The BOCC is designated as the zoning authority for the County (§3-21-1 through 3-21.3.2 NMSA) and may adopt zoning ordinances to regulate height, number of stories and size of buildings; percentage of lot to be occupied; size of yards and other open space; density of population; location and use of buildings for trade, industry or residence.

Counties are also granted the same authority as municipalities (§4-37-1 NMSA), except for powers that are inconsistent with statutory or constitutional limits placed on counties, such as Section 62-3, which limits county franchise fees to actual expenses incurred in the granting of a franchise. County ordinances are not enforceable inside municipal boundaries (§4-37-2 NMSA).

#### **4.2 County Commissioners as Administrative & Executive Officers**

In addition to its legislative duties, the BOCC must perform a large number of administrative functions. These duties include:

- those specified by law
- those necessary to follow through on implementation of the BOCC's prior legislative action
- those administrative actions necessary to carry out the routine day-to-day operations of the County

The other county elected officers are also granted specific powers within the framework of county government, and executive branch authority.

The executive powers granted to the BOCC include, but are not limited to, the following:

- set salaries for county employees, including a County Manager
- care for county property
- perform certain election duties
- make appointments to a number of boards and commissions
- grant certain licenses and regulate certain activities
- perform a number of financial management functions within the county government structure
- maintain a variety of county services, including those provided through intergovernmental agreements approved pursuant to the Joint Powers Agreements Act, (§11-1-1 through 7 NMSA).

#### **4.3 Residency Required to Hold Office**

A Commissioner representing a district, once elected and qualified, loses their right to office by leaving their residence within the district (NM Constitution, Art. X, Sec. 7). A person appointed to fill a vacancy as a County Commissioner must, at the time of the appointment, be a resident of the commission district from which their predecessor was elected (AG Opinion 1915-16:335).

#### **4.4 Term of Office**

The term of office for a New Mexico County Commissioner is four years. Terms among the members of the BOCC are staggered which means that at every general election in New Mexico, members are elected to each county's BOCC (§4-38-6 NMSA).

The general election is held in even-numbered years; the term of office of every state, county, or district officer commences on the first day of January after the election (NM Const. Art. XX, Sec. 3). County officers are elected for four-year terms.

Once a county official has served two consecutive four year terms, that officer becomes ineligible to hold any county office for the next two years (NM Const. Art. X, Sec. 2). A

proposed constitutional amendment which would have allowed county officials to serve three consecutive terms was defeated by the voters in November, 2010.

To provide for staggered County Commissioner terms, in counties with three County Commissioners, the terms of no more than two commissioners shall expire in the same year. In counties with five County Commissioners, the terms of no more than three commissioners shall expire in the same year (NM Const. Art. X, Sec. 2).

A commissioner holds office until their successor is qualified and enters upon the duties of the office (§4-38-7 NMSA). A person is limited to a total of two consecutive terms, regardless of whether they serve them in different counties.

A person who is appointed to fill a vacancy in a county office may serve out the term of their predecessor and still be eligible to run for two consecutive terms. If a person has served one full term as an elected county official and then is appointed to fill a vacancy in office, they are still eligible to run for one more term (A.G. Opinion 1949-50:5286).

#### **4.5 Vacancy in Office**

If a vacancy occurs in the office of County Commissioner, the Governor fills the vacancy by appointment. The appointee holds office until the next general election at which time a successor is chosen (NM Const. Art. XX, Sec. 4). In the event that the vacancy occurs during the first two years of a four year term, the person appointed must run in that general election, even though it is not the ordinary cycle in the staggered four year term procedure. The successor who is then elected at the general election will serve out the unexpired portion of the original four year term, which will have the effect of restoring the proper cycle. That person is then eligible to hold office for two additional four year terms. (NM Const. Art. XX, Sec. 4 and Art. X, Sec. 2) In this unusual circumstance, one person could serve up to two years through the appointment and then two four year terms for a total time of ten years.

Circumstances under which a vacancy occurs in local elective office, including that of County Commissioner, are defined as follows:

- Death of the party in office
- Removal of the officer as provided by law (*See 4.6 below*)
- Failure of the officer to qualify as provided by law
- Expiration of term of office when no successor has been chosen as provided by law (the incumbent continues to serve until a successor is appointed by the Governor)
- Removal of the officer from the county in which they are elected
- Absence from the County for a period of six consecutive months, unless the law provides that the duties may be discharged by a deputy and the absence is due to illness or other unavoidable cause

- Resignation of the officer and
- Accepting/undertaking the discharge of duties of another incompatible office (§10-3-1 NMSA).

#### **4.6 Removal from Office**

New Mexico statutes provide circumstances under which a person may be removed from office (§10-4-2 NMSA). They are as follows:

- Conviction of any felony or of any misdemeanor involving moral turpitude
- Failure, neglect or refusal to discharge the duties of the office or failure, neglect or refusal to discharge any duty devolving upon the officer by virtue of his office
- Knowingly demanding or receiving illegal fees
- Failure to account for money coming into the hands of such an officer
- Gross incompetence or gross negligence in discharge of the duties of the office
- Any other act or acts which in the opinion of the court or jury amount to corruption in office or gross immorality rendering the incumbent unfit to fill the office.

In order to be removed from office, a local official must either be indicted by a grand jury and found guilty at trial, or recalled by the voters.

Recall occurs when a petition for recall is signed by one third or more of the voters who voted when that person was elected to office. The allegations supporting the petition must be examined and probable cause found by the district court. Following the court's determination of probable cause, a recall election will be held. If the recall election is successful, the office is declared vacant (NM Const. Art. X, Sec. 9).

#### **4.7 Abandonment of Office**

If an official fails to devote the usual and normal amount of time during working hours to their duties for a period of thirty or more successive days, they are considered to have resigned from and permanently abandoned public office and employment (§10-6-3 NMSA).

However, state statute (§10-3-1 NMSA) provides that a vacancy in a local office requires six months absence from the County and creates an exception in cases where the duties may be carried out by a deputy and when the absence is due to illness or other unavoidable cause.

#### **4.8 Oath of Office**

Each County Commissioner, whether elected or appointed, must take an oath that they will support the Constitution of the United States and the Constitution and laws of the State of New Mexico. Further, that they will faithfully and impartially discharge the duties of that office to the best of their ability (NM Const. Art. XX, Sec. 1). In the event that a commissioner-elect does not subscribe to the required oath of office, the office becomes vacant and the incumbent continues in office until a successor is qualified and assumes the duties of the office.

#### **4.9 Bonds**

Each county officer must provide an official bond payable to the State of New Mexico to assure the faithful performance of the duties required of the officer by law (§10-1-13 NMSA). County officers are prohibited from being sureties for other officers who are required to give a bond (§10-2-3 NMSA). Violation of this statute constitutes a misdemeanor in office (§10-2-4 NMSA). When any county officer is required to give a surety company bond, the premium on that bond is to be paid out of the County's General Fund (§10-1-13 NMSA). Failure by a newly elected official to post a bond causes that office to become vacant (§10-1-13 NMSA). The County Manager, or risk manager if one exists, will assist the county elected officials in meeting the statutory bonding requirements through the New Mexico Association of Counties Insurance Authority, or other insurer.

#### **4.10 Compensation**

Maximum salaries of county officials, including the County Commissioners, are fixed by the State Legislature and vary according to the county classification (NM Const. Art. X, Sec. 1). The legislature is limited in its financial control of county officers by the fact that they can neither increase nor decrease the compensation of any county officer during their term of office (NM Const. Art. IV, Sec. 27). The salaries of county officers are subject to change in even numbered sessions of the legislature and if approved by the BOCC, will become effective January 1 of the following year, or other date as set by the BOCC (See §4-44 NMSA, and Appendix D).

Despite the fact that the BOCC may approve a newly authorized [by the legislature] salary increase, county officials are not eligible to receive an increase in pay during their term of office. Salaries may only be increased prior to the county official assuming office for the first time, or upon re-election. Constitutional Amendment 2, on the November, 2008, ballot would have allowed Boards of County Commissioners the option of giving mid-term raises to county elected officials. The amendment was defeated by the voters.

#### **4.11 Office of the Chairperson for the Board of County Commissioners**

The members of the BOCC vote to select one of their members as their Chairperson at the first meeting of the calendar year in the absence of an ordinance mandating otherwise. The Chairperson is to preside at all meetings during the year. If the Chair is absent, the members have usually also chosen a Vice-Chair who will act as temporary Chairperson (§4-38-10 NMSA). The Chair is an equal member of the Commission, with the same amount of authority to bind the County as the other Commissioners, but the Chair has also the authority to preside at meetings, to sign on behalf of the County as approved by the full board, and to administer oaths to witnesses before the BOCC.

Except for the above duties and the ceremonial functions that the Chairperson is expected to perform, and absent a formal delegation of authority by a majority of the BOCC to the Chair

regarding any other functions, the powers and duties of the Chairperson coincide with those of the other commissioners. It can therefore be said that the powers and duties of the Chairperson do not result in a strong executive. However, depending on the personality and degree of influence of the Chairperson, there is also the possibility of informal power. This is something to consider when choosing the Chairperson, for once chosen, the Chairperson is not likely to change during their term as Chair (AG Opinion No. 1953-54: 5983). According to statute (§4-38-10 NMSA), the Chair “shall preside at that (first) meeting and all other meetings, if present.”

#### **4.12 General Powers and Duties of County Commissioners**

The division of labor between the BOCC and the County Manager is simple and straightforward: the County Commission establishes policy for the County, and the County Manager and county staff implement policy and are responsible for day-to-day operations of county government.

A County Commissioner has both ministerial and discretionary duties to perform in connection with this job. Ministerial duties are those that a person performs without regard to their own judgment as to the desirability of the act. For example, the BOCC has a ministerial duty to call an election for the formation of a special district if presented with a proper petition. The BOCC must do this even though the members may feel that the special district is not necessary and would be against the general public welfare. The BOCC cannot disregard the legal process presented for action because it has no discretion in this aspect of this official duty.

On the other hand, the orderly conduct of governmental affairs requires a commissioner to exercise considerable independent judgment. In these matters, they are considered to have discretion in deciding whether an act is to be performed and in deciding the manner of performance of any action that is undertaken. Thus, the BOCC has discretion in the formulation of ordinances (law making) and resolutions (policy setting) within the limits set by law.

In every function of local government, it is established that a County Commissioner, and any other officer of the County, has a duty to carry out powers that do not violate the fundamental rights of persons as guaranteed under the United States Constitution. Generally, the BOCC is protected by the Tort Claims Act (§41-4-1 NMSA) from personal liability in performing discretionary acts unless it can be clearly shown that their actions are fraudulently, corruptly or maliciously committed.

Whenever a county official, employee or agent is sued, the proper party to be named as the defendant is the BOCC (§4-46-1 NMSA).

#### **4.13 Specific Duties/Authority Granted to Boards of County Commissioners**

There are a large number of statutory references to specific powers granted to a New Mexico Board of County Commissioners. See Appendix C (Page 109) for a partial list.

## **CHAPTER 5**

### **MEETINGS OF THE**

### **BOARD OF COUNTY COMMISSIONERS**

Revised 2011

The statutes contain some basic meeting requirements, many of which are outdated and impractical in light of the number of transactions processed, and the advanced technology of modern times.

- The law provides that the Board of County Commissioners (BOCC) must meet at least quarterly during the months of January, April, July and October at the county seat (Section 4-38-8 New Mexico Statutes Annotated).
  - More frequent meetings may be held if necessary for the transaction of business, and usually are.
  - The BOCC determines the specific times, places and rules for holding these meetings.
  - Meetings must be held in public buildings, i.e., county, municipal, state, public school.
  - Smoking is generally prohibited at public meetings by state law (§24-16-5 NMSA), but state law does not preempt the enactment of local government ordinances that are not inconsistent with the Clean Air Act (§24-16-2 NMSA).
- Proceedings of the meetings are to be published in a newspaper of general circulation in the County within twenty days (§4-38-9 NMSA).
- By the tenth of each month, a summary of minutes of all the meetings held during the preceding month must be prepared by the BOCC.
  - The summary must include an itemized accounting of income and expenditures (§10-17-1 NMSA) and must be sent to all newspapers within the County for use as the periodicals deem fit (§10-17-2 NMSA).
- The Open Meetings Act imposes similar requirements to ensure that the business of the BOCC is made accessible to the public.
  - Both this important law and the Inspection of Public Records Act are enforced with more regularity than many of the older laws referenced in this handbook.

#### **5.1 Meetings**

All meetings of the BOCC are required to be open to the public and all final decisions must be made in public (§10-15-1 NMSA). The BOCC may meet privately in closed session to discuss items that fall within an exception to the Open Meetings Act; however, most final decisions must be voted on in public meeting, and must have been properly noticed on the agenda for such action. Some of the exceptions include confidential personnel matters, deliberations regarding licensing or other administrative hearing, pending or threatened litigation, and the purchase of real property (§10-15-1 NMSA). Any action taken by the BOCC in violation of the Open

Meetings Act is invalid (§10-15-3 NMSA) and is susceptible to being declared to be null and void. Additionally, any person who violates the Open Meetings Act is guilty of a misdemeanor and if convicted, may be punished by a fine of up to \$500 for each offense (§10-15-4 NMSA). For more information, please refer to the *Open Meetings Act: A Compliance Guide for New Mexico Public Officials and Citizens* published by the Attorney General's Office.

## **5.2 Proceedings**

The BOCC may, and should, establish its own rules and regulations to govern the transactions of business (§4-38-12 NMSA). The meeting is led by the Chairperson according to the rules adopted by the BOCC. As previously stated, the Chairperson is typically chosen from and by the BOCC during the first meeting of the year. The BOCC must have a seal which is affixed to all important documents. They may change the seal (§4-38-12 NMSA).

- The Chairperson calls the meeting to order, and determines whether a quorum is present.
- The County Clerk or a deputy must be present at all meetings (§4-40-3 NMSA) to record the proceedings.
- To transact official business, a majority of the Commissioners must be present as a quorum (§4-38-2 NMSA).
- Without a quorum, no business may be discussed or decided upon.
- Following roll call and determination of a quorum, the draft minutes from previous meeting(s) are discussed, approved, or if necessary, approved subject to certain corrections being made to them.

## **5.3 Agendas**

An agenda is an outline of items to be considered at a meeting. The Open Meetings Act requires that each meeting notice include an agenda specifically listing items of business to be discussed or transacted and detailing how the public may obtain a copy of the agenda (§10-15-1 NMSA). The agenda must be available to the public at least twenty-four hours prior to the meeting unless an emergency requires otherwise.

Except for emergency matters, action by the BOCC is generally limited to those matters detailed with specificity on the agenda. An “emergency” is defined by the Open Meetings Act as, "unforeseen circumstances that, if not addressed immediately by the public body, will likely result in injury or damage to persons or property or substantial financial loss to the public body." A formal determination should be made by the Board as to whether an emergency exists and stating the nature of the emergency, prior to considering and taking action upon any matter that has not been duly noticed on the agenda for the meeting.

The County Manager should be present and consulted at meetings of the BOCC. Items of interest attracting large numbers of people may be moved up on the agenda as a courtesy to those attending, as well as to minimize distraction during discussion of other matters. Grouping subject matters by similar types is also desirable. Any time an item is to be considered that affects a

county official or employee, the presence of that individual is recommended. Any time an item on the agenda affects, or may potentially affect, a personal or business interest of a Commissioner, the Commissioner should disclose the relationship or interest as soon as possible, and a decision should be made on whether the Commissioner shall abstain from the discussion and vote.

The BOCC might adopt an agenda similar to the following example:

- A. Call to Order and Determination of Quorum
- B. Pledge of Allegiance
- C. Introductions and announcements
- D. Read and approve previous meeting minutes
- E. In some counties there is a Consent Agenda item, which may include items such as previous meeting minutes, minor budgetary adjustments, and others on which the BOCC and public have no specific questions or comments. The County Manager would present a summary of these consent agenda items, and, if there are no questions or comments from the BOCC or the public, they could be acted upon quickly. If any item does surface a question or comments, the item should be removed from the Consent Agenda and added as a regular agenda item for the meeting.
- F. Changes to the Agenda (changing the order of items to be heard or deleting an item are examples). The BOCC should not add a brand-new topic for discussion or action without proper notice as required by their annual notice resolution and the Open Meetings Act.
- G. Public input (not related to specific items of business listed on agenda, which they have a right to address at the time the board is considering it)
- H. Petitions, memorials, proclamations and announcements
- I. Approvals of bid awards and contracts
- J. Reports by county officials, boards or commissioners
- K. Approvals of ordinances and resolutions
- L. Public hearings (may fall under ordinance category also)
- M. Closed session, if any (identify subject matter and applicable 10-15-1(H) exemption)
- N. Action regarding closed session matters, if any. (The matter needs to be on the printed agenda with reasonable specificity in order for the BOCC to be able to take valid vote.)
- O. Adjourn

Assuming a quorum, the first five (or six if there is a Consent Agenda) items should be considered in order; however, the remainder of the agenda can be varied, depending upon the circumstances, including attendance of dignitaries, time limitations of legal counsel in attendance, large numbers of the public in attendance, etc.

#### **5.4 Rules of Procedure**

Each elected BOCC has the right to adopt rules to govern how their meetings will be conducted, and to change them as needed. As a general rule, each Commissioner should become familiar with basic parliamentary procedure. The object of any set of rules, such as Robert's Rules of Order (RRO), is to assist an assembly in accomplishing the work it was designed to do, in the most efficient and least contentious manner possible.

The most formal and comprehensive set of procedures is authoritatively defined in *Robert's Rules of Order*. Many different versions (i.e., editions) are available. If the BOCC states in its rules that it is going to follow RRO, then it should also specify which edition and which, if any, specific rules it is not going to utilize.

Some of the most commonly needed/used rules of order are the following:

- Gaining the floor. A person wishing to speak should address the Chairperson and await recognition before speaking. The Chairperson should acknowledge and fairly call on each member in a consistent or methodical fashion.
- Calling to order. The Chairperson may call to order any speaker violating the rules of procedure. If another Commissioner calls the speaker to order, the speaker must remain silent until the Chairperson decides if they were out of order. Note: any member may appeal from the Chairperson's procedural ruling—a second is needed, and then the point of order is decided by vote of the full board.
- Dividing the question. If any question or item to be discussed has more than one proposition, then that should be divided into separate points of consideration upon motion of a Commissioner.
- Moving the previous question. A Commissioner desiring to close debate and vote upon a question should say, "I move the previous question." Debating and voting upon one question or motion at a time is usually the best procedure. Full debate on each question is encouraged and protected under Robert's Rules of Order.
- Making and seconding a motion.  
To make a motion, a Commissioner should say "Mr./Ms. Chairperson, I move that ..."

The motion is seconded if another Commissioner states, "Mr. /Ms. Chairperson, I second that motion."

- Most motions require a second.
- Some motions do not require a second:
  - Question of privilege
  - Call for agenda of the day
  - Point of order
  - Call to order
  - Objectives to consideration
  - Requests
  - Call for division
  - Withdraw a motion
- Stating the motion. The Chairperson restates the motion after it has been moved and seconded. The Clerk records the motion in the minutes and if asked reads the motion to ensure its proper recording. Until the Chairperson states the motion, it is not properly before the BOCC for debate or amendment.
- Appeal from a decision of the Chair. A Chairperson's decision to refuse to entertain a motion or any other point of order may be appealed by another Commissioner. After a second to the appeal, and debate, the BOCC then votes whether to allow the Chairperson's decision to stand. If the decision is sustained by Commission vote, no further action is taken. However, if the decision is overruled, discussion of the motion is begun by the BOCC.
- Debate. Not all motions are debatable in formal procedure. If a motion is debatable, the Chairperson should ask for comments after he or she states the motion.
  - Debatable motions:
    - To postpone (but only as to the date and time that the matter will be postponed to)
    - To refer to committee
    - To amend
    - Main motion
    - To appeal it (the decision to which it relates is the natural right of the governing body)
    - To reconsider it (the motion to be reconsidered is debatable)
  - Non-debatable motions:
    - To fix adjournment times
    - To adjourn

- To take a recess
  - To call for orders of the day
  - To lay on the table (to table an issue)
  - To move the previous question
  - To modify debate
  - To appeal
    - if it relates to the rules of speaking
    - to priority of business
    - to a decision on a non-debatable question
    - if it is made while a vote is being determined
  - To suspend the rules
  - To make a point of order
  - To call to order
  - To object to consideration of a matter
  - Requests
  - To call for division
  - To withdraw a motion
  - To divide a question
  - To reconsider (if the motion to be considered is not debatable)
  - To take from the table
- Putting the question. A motion is put to a vote by the Chairperson after debate, if any. The Clerk must record the vote of each Commissioner. Votes may be taken by a show of hands, roll call or voice vote. If a roll call is required, the Chairperson should request the Clerk to call the roll.
  - Stating the results. Immediately after a vote is taken, the Chairperson should state the results

**CHAPTER 6**  
**WORKING WITH OTHER OFFICIALS**  
**& OTHER BOARDS**  
**WITH COUNTY GOVERNMENTAL RESPONSIBILITIES**

Revised 2012 by County Attorney Douglas Decker, Esq.

The ideal relationship between elected county officials and the staff members of their respective departments should be one of reciprocal respect and cooperation. This is to ensure that county residents receive the services to which they are entitled, in the most expeditious and courteous manner possible. For the same reason it is important to give the other elected county officials and their staff the same respect and cooperation. In addition, there are other elected bodies and organizations that interact with the County and the various elected offices throughout your county; i.e., Conservancy Districts, Water and Sanitation Districts, School Boards, State Agencies, non-profits, etc.

**6.1 Cooperation among County Offices is Essential**

Cooperation and respect for the other elected officials' offices and roles within the County's structure is essential.

An illustration of why cooperation is needed:

- The Board of County Commissioners (BOCC) imposes the tax rates, upon the direction of the Department of Finance Administration/Local Government Division (DFA/LGD) and Property Tax Division (PTD);
- the Assessor assesses the net taxable value of property;
- the Treasurer sends out the bill (with the information provided by the BOCC and the Assessor) and collects from the County's property owners;
- the Treasurer distributes the property tax to the various other entities that are entitled to a portion, i.e.:
  - the Hospital Mil Levy
  - the Conservancy Districts
  - the School Districts
  - the Municipal Bonds and other bonds requiring payment from property taxes and any taxes imposed by other authorized agencies or organizations.

It takes the offices of three sets of elected officials to accomplish this one major function of county government. It can't be done efficiently without cooperation, and cooperation won't happen without communication.

## **6.2 County Manager as Liaison**

It is the County Manager who is in the best position to serve as liaison between officials, to facilitate communication for the benefit of all county departments, and to set a tone of professionalism, healthy respect, and an expectation of open communication and never-failing cooperation between the departments, other entities, and organizations.

## **6.3 Protecting Tax Revenues**

The same need for cooperation exists in the area of setting the deposit and investment policy for the County's tax revenue. The duty owed to protecting the tax revenue is a shared responsibility between the BOCC, the County Treasurer and the County Clerk, together constituting the County Board of Finance (Section 6-10-8 New Mexico Statutes Annotated).

## **6.4 The BOCC and the County Clerk**

The BOCC must rely on the County Clerk, who is charged by law to attend all BOCC meetings and to keep record of all votes, decisions, resolutions, ordinances, and other papers for the BOCC.

The County Clerk also must sign on the checks as approved/issued by the BOCC (§4-40-1 *et. seq.* NMSA).

Another example of overlap and the need for cooperation is the planning for, and management of primary, general, and other statewide elections, which involve shared duties between the County Clerk and the BOCC. The County Clerk also works with and aids other agencies for municipal and school elections (§3-8-7, and 1-22-1 *et. seq.* NMSA).

## **6.5 Special Boards and Commissions**

In addition to the elected officials and their staffs, there are a number of special boards and commissions that may be created within a county. These entities perform various functions and have specific powers. Some of their appointed members will receive compensation; most will not. All are entitled to per diem and mileage if travel is required to perform the duties they are assigned.

Examples of special boards include but are not limited to:

- Special District Commissions
- Extra Territorial Zoning Boards
- Planning and Zoning Boards
- Smart Growth Commissions
- Joint Powers Agreement Boards; etc.

Examples of other boards that require interaction from the BOCC and other elected officials include but are not limited to:

- Council of Governments
- Water & Sanitation Districts
- Mutual Domestic Water Association Boards
- Hospital Boards; etc.

## **6.6 Volunteer Organizations and Non-profit Entities**

As leaders in the community, BOCCs must foster and maintain the spirit of reciprocal respect and cooperation with non-governmental organizations and groups. At times, elected officials will be sought to either serve on the boards of these organizations or appoint community members to serve on these boards. In either case, elected officials must realize the separate duties and obligations that come with this extra service, and the liabilities that can be imposed on individuals and organizations.

County Commissioners serving on extra boards or appointing members to other organizations must remember that each organization is governed by their own declarations, bylaws or other forming documents. These forming documents control the fiduciary duties and obligations of the organization.

Elected officials, when serving as officers of an organization, are required to exercise the ordinary and reasonable care required to carry out the purposes of the organization, including confidentiality. Once appointed, the provisions of the declaration or bylaws govern the actions of all board members and their continued service and removal are a function of the organization. Conflicts that arise between the County and an organization may require the self-removal of the elected official from the extra board so the elected official is able to fulfill the oath of office taken for public service.

When serving on these extra boards, an elected official is not acting in the capacity of their office and therefore, the County should not be held liable for the actions of a board member.

There are various types of liability of a member serving on an extra board. The type of liability can be personal, limited personal, or exempt from personal liability. There can be liability for breach of fiduciary duty, breach of contract, negligent acts, failure to perform the duties of a director, willful misconduct or recklessness, failure to act or take appropriate action, etc. It is important for every elected official to understand the separation of duties between their elected office and their volunteer role on a board, and to maintain an ethical balance in the process.

## Notes

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## **CHAPTER 7**

### **EMPLOYMENT LAW FOR POLICY MAKERS**

Revised 2012 by Grace Philips, NMAC Loss Prevention Attorney

#### **7.1 Responsibility/Liability for Personnel Administration**

It is the Board of County Commissioners (BOCC) that will be named in any lawsuit arising from a county personnel dispute (Section 4-46-1 New Mexico Statutes Annotated) as is often the case in any other area of county operations. Absent a delegation of authority by the BOCC thereby creating a personnel (human resources) department, or otherwise delegating authority to a person to administer the County's personnel policies on behalf of the County, the members of the BOCC may be named and potentially found liable for County decisions and actions taken in violation of law or established policy, if such decisions adversely affect an employee.

Such liability may be in the Commissioner's official capacity, in which case the County and/or its insurance carrier pays for any adverse judgment that may be rendered against him or her. However, in the event of extraordinary misconduct, liability can be imposed against a Commissioner in their personal capacity and such personal liability shall not be paid by county or insurance funds.

Fortunately, most New Mexico counties have County Managers and human resources staff to administer their personnel policies. It is critical for County Commissioners individually, and for the BOCC as a whole, to permit these professionals to do their jobs.

The creation of a personnel (human resources) department will only protect Commissioners from personal liability to the extent that they allow the personnel (human resources) department to operate professionally and independently. The BOCC will still be named in any lawsuit, but any individual Commissioner who has not involved themselves in the personnel matter at issue should be able to be dismissed early in the litigation.

#### **7.2 County Merit Systems**

By law, the BOCC is responsible for setting and fairly maintaining the salaries of county employees (§4-38-19 NMSA). Often, the BOCC employs a County Manager to perform this function on its behalf. The County Manager in turn may delegate these duties to other staff, depending upon the size of the County.

The BOCC is authorized, but not required, to enact a merit system by ordinance for county employees (§4-37-1, 4-38-19 NMSA). Most New Mexico counties have enacted merit systems through personnel ordinances or employee policy manuals. The term *merit system* simply means that personnel actions will be objective, fair, and impartial and based upon the qualifications and performance of the person; not on political or other improper considerations.

Although the BOCC has considerable authority when enacting a county-wide personnel policy, the other elected county officials may receive significant deference to their recommendations concerning recruitment, salary and discipline of the employees hired in their departments.

The BOCC, under distinct authority granted by the New Mexico legislature, is expressly authorized to establish a merit system for deputies and other personnel in the County Sheriff's office (§4-41-6 NMSA). Such an ordinance would typically:

- provide for the classification and compensation of the Sheriff's personnel
- define the probationary period and other changes in employment status
- provide for work performance evaluations and the methods by which pay increases will be granted
- set the required work hours and address issues relating to overtime
- set forth the expected standards of conduct; provide methods and standards for recruitment and promotion
- and clarify the consequences for variances from the expected standards of conduct (i.e., discipline, demotion or dismissal from employment).

However, many offices also adopt Standard Operating Procedures (SOP's) that touch on the same issues. In addition, some county employees belong to unions and, therefore, have collective bargaining agreements that also address issues such as pay and discipline. It is critical that these documents not contain conflicting provisions.

### **7.3 Federal and State Laws Influence Personnel Administration**

Adopting and implementing appropriate and comprehensive personnel policies is good business practice. It also helps counties to comply with the many federal and state laws and corresponding rules and regulations that govern the area of public employment. This is very important because violations of employment laws and principles of nondiscrimination expose counties to significant liability.

As policy makers, every County Commissioner, and the BOCC as a whole, needs to be familiar with each of the following laws and principles:

- 1<sup>st</sup>, 4<sup>th</sup>, 5<sup>th</sup>, and 14<sup>th</sup> Amendments to the United States Constitution
- Age Discrimination in Employment Act (ADEA)
- Americans with Disabilities Act as Amended (ADAAA)
- Arbitration
- At-will employment
- Consolidated Omnibus Budget Reconciliation Act (COBRA )
- Collective bargaining
- Drug testing
- Due process
- Employee privacy
- Equal Pay Act (EPA)

- Fair Labor Standards Act (FLSA)
- Family and Medical Leave Act (FMLA)
- IRS Independent Contractor Test
- Health Insurance Portability and Accountability Act (HIPAA)
- National Labor Relations Act
- Occupational Disease Disablement Law
- Occupational Health and Safety Act (OSHA)
- Pregnancy Discrimination Act
- Title VII of the Civil Rights Act of 1964
- New Mexico Human Rights Act
- Unemployment Compensation
- Uniformed Services Employment Reemployment Rights Act (USERRA)
- Veterans' rights
- New Mexico Whistleblower Protection Act
- New Mexico Workers' Compensation Act

Employment law is a complex specialty that is always changing. As the above list demonstrates, it is crucial for each county to adopt, maintain and consistently enforce merit system employment practices as well as to ensure that county personnel regulations are informed by current legal principles.

#### **7.4 The Structure of a Personnel or Human Resources Department**

Some county governments have neither a personnel department nor a person assigned to carry out personnel functions. While the ideal may be to institute a centralized personnel/human resources (HR) department for each county, this option may not be feasible for smaller New Mexico counties. Most counties employ a County Manager who at a minimum oversees the personnel functions on behalf of the Board and who, in smaller counties, may perform them.

County Managers should ensure that either they or a personnel/human resources (HR) department if there is one established, are knowledgeable in each area of state and federal law listed above, and with each general area of operation listed below.

Additionally, the County Manager should make an annual effort to provide continuing training to key employees who can in turn share the knowledge gained with others in the department. Continuing education training should be focused on those areas where the rules are continually changing, and where exposure to liability is the greatest. Training efforts also need to be focused in those areas that have been proven to be lacking, based on the County's experiences. When proper interest and resources are directed to these areas, not only will the potential for liability to the County be reduced, but county operations will be more efficient and effective.

## 7.5 Training Programs

The New Mexico Association of Counties (NMAC) offers a broad array of training and educational opportunities for county elected officials and employees. NMAC's loss prevention department employs five full-time professionals, and offers training to members of the self-insurance pools on topics such as effective supervision, sexual harassment prevention, ethics and professionalism, as well as first aid/CPR, and comprehensive safety and OSHA training. NMAC also provides legal consultation on employment matters and all other areas of county government.

NMAC provides extensive training and education in detention issues, and offers training in consultation with the National Institute of Corrections and other national organizations. NMAC has copyrighted its Risk Awareness Program, a 50-week customized training program for county government, which has resulted in a significant reduction in the number of county accidents and claims. NMAC has developed accreditation programs for sheriffs' departments and adult detention facilities to improve professionalism and operations of these high risk departments.

Another training opportunity for NM County Commissioners, County Elected Officials, and county staff is the NM EDGE County College program. The NM EDGE County College is a partnership between NMAC and New Mexico State University Cooperative Extension Service, which began in 2003 with the goal of delivering quality, meaningful and accessible training at affordable prices to county officials and their employees. In 2008, Cooperative Extension Service joined the National Certified Public Manager Consortium, allowing New Mexico to offer the nationally recognized CPM program. County College was restructured to meet the requirements of the national CPM program allowing students to earn credits in both programs.

The NM EDGE (Education Designed to Generate Excellence in the public sector) was created in 2011 as an umbrella organization for the County College, the nationally accredited Certified Public Manager program, and a certificate in public ethics (CAPE). In addition to these core programs, the NM EDGE County College offers customized certification programs for various county offices resulting in designations such as:

- NM Certified County Commissioner
- NM Certified Public Assessing Official
- NM Certified Treasury Official
- NM Certified County Clerk
- NM Certified Jail Specialist and Jail Professional
- NM Certified Geographic Information Systems Professional

Additional certifications are created based on educational need. A current list of all of the available programs can be found at [nmedge.nmsu.edu](http://nmedge.nmsu.edu)

Many of the training opportunities are offered in conjunction with regional NMAC conferences or affiliate meetings. Participants can earn the designation as a *Certified Public Official*, *Certified Public Supervisor*, *Certified Public Manager* or other customized New Mexico certifications, depending on the individual's interest.

For further information about The NM EDGE County College program, the history of this partnership, classes being offered and copies of these handbooks, visit the website at [nmedge.nmsu.edu](http://nmedge.nmsu.edu).

## **7.6 Basic Areas of Operation of a Personnel or Human Resources Department**

The general areas of operation of any personnel or human resources department include the following topics and they should be considered carefully during the drafting and implementation of a comprehensive personnel/merit system ordinance:

- **Recruitment** Recruitment relates to the issue of attracting the best employees to compete for existing positions. A wide variety of employee benefits is usually offered and should be explained and emphasized as an additional reason to consider employment with a county.
- **Evaluation** Objective criteria to evaluate applicants is an integral part of any good personnel system, because competitive examinations and/or evaluation rating forms are useful in ranking the qualified candidates, and in defending hiring and promoting decisions when inevitably challenged.
- **Selection or Certification** As a result of the recruitment and examination/evaluation processes, the best applications are certified and selection is made.
- **Position Classification** The different kinds of work and job functions performed by each of the County's employees are identified, described and then grouped into similar job classifications, by which fair compensation for the level of responsibility and scope of duties can be set.
- **Compensation Plan** The compensation (pay) plan or salary schedule set by the BOCC for each position classification must be maintained in order to stay current with cost of living increases that naturally occur. If there is no ordinance authorizing the County Manager and Personnel Department to make annual or biannual adjustments, then these staff persons will need to bring such a proposed revised pay plan to the Board's attention at its public meetings on a regular basis. If the pay plan is not maintained, the County may not remain competitive with other agencies, and may lose employees that have been trained at the County's expense to other entities. Employee morale may suffer and the Personnel Department and other administrative officials involved in the recruitment and hiring processes may spend inordinate amounts of time dealing with issues relating to turnover.

- Employee Benefits Employee benefits, including insurance benefits and paid and unpaid leave, need to be clearly defined and communicated to employees.
- Employee Conduct Policies describing employee conduct, including any restrictions on outside employment, personal appearance and drug use, also need to be clearly defined and communicated to employees. Personnel ordinances also frequently address use of county equipment as well as safety procedures.
- Employee Training Training should be viewed as a necessary annual expense to be budgeted for by the County Manager, elected officials, Personnel Department, or other authorized individual county departments. The County Manager should challenge department heads to propose a training plan for each department that will maintain, enhance, and broaden the current level of skills and knowledge necessary for serving the public. An ability to prove that training was provided in certain areas will also serve to help the County defend certain types of lawsuits that are regularly brought against public entities. As we have mentioned in other areas of this handbook, the NM EDGE County College program is designed to meet the needs of all aspects of NM county government, by providing cost-effective, accessible, and targeted educational opportunities to all county policy makers and staff.
- Promotion A fair and impartial method or system for promoting competent and hard-working employees should be instituted, made known to the prospective applicants, and applied consistently. If the County chooses, preference to internal county candidates can be written into the criteria that will be considered for promotion; but if so, then it must be applied with every job opportunity, not just those where there is a preferred internal candidate.
- Discipline and Dismissal The County's merit system ordinance should explain the minimum standards of conduct that will be expected from each employee, and should clarify that some consequence (i.e., discipline) will be imposed for violation of same, along with explaining the procedures by which such consequences will be imposed. If the County has not adopted a merit system ordinance, then the County Manager should ensure that the County's administrative directives (i.e., policies) are written and distributed to the employees. This will assist each supervisor in enforcing the County's policies on a consistent basis, and will assist the County in defending against claims that may be predicated in part on an alleged failure to address misconduct.
- Due Process Classified county employees who have successfully completed their probationary period are entitled to due process any time they risk termination, demotion with loss of pay or involuntary unpaid time off from work. Due process consists of notice and an opportunity to be heard prior to the discipline being imposed, along with a post-disciplinary hearing.

- **Nepotism** It is unlawful (§10-1-10 NMSA) for any persons elected or appointed to any public office or position under the laws of the state or by virtue of any municipality (or county) thereof, to employ as clerk, deputy or assistant, in which such office or position, whose compensation is to be paid out of public funds, any persons related by consanguinity (blood) or affinity within the third degree to the person giving such employment, unless such employment shall first be approved by the officer, board, council or commission, whose duty it is to approve the bond of the person giving such employment.

The statute does not apply when the position is compensated at the rate of \$500 or less a year, and does not apply to public school teachers.

County governments, including those in New Mexico, should strive to pursue a program of excellence in their services to the public. If the area of personnel or human resource administration is neglected, it will negatively impact each and every county service and program. A competent and satisfied county staff (in the sense of the morale that results from a fairly applied and enforced personnel system) will most efficiently and courteously provide the required public services.

### **7.7 County Government Benefits**

All BOCCs should become well informed about the County's employee benefits program and the several options that can be provided to county employees and elected officials. County employers are required by law to provide group term life, medical and disability insurance to employees and eligible retirees and may contribute up to 100% of the premium in counties with fewer than 25 employees (§10-7-4.2 NMSA). Other programs which are made available to county personnel are Social Security, Public Employees Retirement Association (PERA) membership, Unemployment and Worker's Compensation.

Counties must enroll employees in the Public Employees Retirement Association (PERA) unless the employee or official qualifies to be exempted from the program (§10-11-3 NMSA). There are multiple retirement plans ranging from matching seven percent (7 %) contributions by the employee and County, to higher rates for special situations. Law enforcement and fire members pay a minimum of seven percent (7%), and the County matches this with a ten percent (10%) or greater contribution.

In the 2010 special session, the Legislature severely restricted the practice of employees returning to work and receiving both a pension and a salary. Exemptions to the new return to work provisions of the law, after July 1, 2010, are for legislative session workers and elected officials only. The March 2010 issue of *La Voz*, the PERA newsletter ([pera.state.nm.us](http://pera.state.nm.us)) includes a detailed description of the effect of the bill on retirees.

Every county, as an employer, is subject to the provisions of the Worker's Compensation Act and the Unemployment Compensation Act (§51-1-14 NMSA). Every county is liable to pay legitimate claims brought against it by eligible county employees.

Counties are also subject to the Whistleblower Protection Act, which prohibits public employers from retaliating against public employees who take action, object to, or refuse to participate in a matter that they believe, in good faith, to be an unlawful or improper act (§10-16C-3 NMSA).

### **7.8 Collective Bargaining in the Public Sector**

The Public Employee Bargaining Act, as revived in 2003 after a sunset period, guarantees county employees the right to organize and bargain collectively with their employers, to promote harmonious and cooperative relationships between public employers and public employees and to protect the public interest by ensuring, at all times, the orderly operation and functioning of the State and its political subdivisions (§10-7E-2 NMSA). Management, supervisory employees, and confidential employees are generally excluded from participation (§10-7E-13C NMSA).

If a labor organization has sought to represent a unit of county employees, and once the representation issues have been resolved (i.e., what labor organization will represent the unit and which job classifications are appropriately included in the proposed unit), each county will need to appoint a team to represent the County in negotiating sessions with the labor organization that has obtained the approval from the County's bargaining unit, the end result of which will be a collective bargaining agreement that will then govern most aspects of the public employee's relationship with the County as their employer.

Typically, a member from the County's personnel or Human Resources Department will be on the negotiating team, along with a representative from the Finance Department and the department head of the department that is organizing.

Usually, Commissioners and County Managers are *not* on the bargaining team for several reasons, including but not limited to:

- negotiations are very time consuming
- the County Manager or County Commissioner is usually viewed by the labor organization as having greater authority than the other members of the team, which is detrimental to the process
- personnel and finance staff are usually the most knowledgeable about the topics being negotiated
- any agreement worked out is ultimately subject to review and recommendation by the County Manager before it is placed on the BOCC's agenda for consideration and formal approval. Therefore, if the County Manager or a member of the BOCC is on the team, it is viewed as negating the efforts of the others on the team

The Public Employee Bargaining Act gives the BOCC the authority to adopt a local ordinance that will very closely mirror the State Act, and establish a local labor relations management board. It is usually in the County's best interest to establish a local board, because it allows persons who have local knowledge and interests to make decisions that will impact county operations for a long time into the future, and further because it reduces the cost of mileage and per diem that must be paid to numerous staff members and witnesses needed for the many hearings. If a local board is not established by ordinance, all representation, election, impasse and grievance hearings will be heard by the State Public Employee Labor Relations Board in Albuquerque or Santa Fe.

### **7.9 Liability**

Elected and appointed county officials who are found liable for acts or omissions made while in prudent performance of their duties will likely be defended by the County or its insurance carrier, who is responsible for defending public employees and to pay damages, settlements, or judgments (§41-4-4 NMSA). However, employment lawsuits present counties with out of pocket costs even when the insurance carrier defends the suit. This is because counties may be responsible for front pay, back pay or incidents of compensation or benefits due to a successful plaintiff, and such damages are not covered.

In addition, the Tort Claims Act does not protect public employees who may be found liable in their personal capacities as a result of actions (or omissions to act) outside the course and scope of their duties, or as a result of fraudulent or intentionally malicious conduct (§41-4-4 NMSA).

The New Mexico Whistleblower Protection Act, which was enacted in 2010, creates a new basis for liability against public officials who retaliate against employees because they disclose information about conduct they believe in good faith to be unlawful or improper (§10-16C-1 through 6 NMSA). If the jury or judge finds that county officials engaged in intentional or malicious conduct and awards punitive damages, such damages are not paid by the insurance carrier.

Counties are required to obtain insurance coverage against tort claims and may participate in coverage provided by the New Mexico County Insurance Authority, a pool consisting of most New Mexico counties for the purpose of insuring against risk or loss.

## Notes

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## **CHAPTER 8**

### **SOURCES OF PUBLIC FINANCE**

#### **County Taxes & Revenues**

Revised 2012 by NMAC Lobbyist & NM EDGE Academic Advisor Tasia Young, Ph.D.

County revenues in New Mexico are administered by the Board of County Commissioners (BOCC) and are obtained from three main sources:

- property taxes
- gross receipts taxes
- fees and licenses

County revenues are collected by the County Treasurer. State revenues are collected by the New Mexico Department of Taxation and Revenue or another state agency and then shared with county governments. Federal revenue sources are grants derived from the federal government.

Several sources of information on New Mexico county finances are available. The Legislative Council Service publishes a 382-page *Index to Revenue Sources in New Mexico*, most recently revised in November, 2008. Statistics are available in the annual reports of the Department of Finance & Administration's Local Government Division Budget & Finance Division (See *Property Tax & Other Reports* on their website) and in publications of the Taxation & Revenue Department (See Taxation & Revenue Department/Tax Library/Municipal & County Government or FYI Publication 120, for a description of all local option gross receipts taxes).

#### **8.1 County Revenue Sources**

County revenues are collected and distributed by the County Treasurer. According to a report prepared by the staff of the Legislative Finance Committee (LFC) in August of 2010, property taxes were the single largest component of county revenues in Fiscal Year 2009, at 19 percent. Gross receipts taxes were at 17 percent. State grants and transfers were 7 percent. Fees and licenses were not discussed in the LFC report, but are estimated to account for one-tenth to one-fifth of county revenues. Only some of the more common revenue sources are described in this handbook.

#### **8.2 Property Taxes**

Property taxes represent the single greatest source of county government revenue. Property subject to tax is valued for tax purposes at one-third of the current market value (Section 7-37-3 New Mexico Statutes Annotated). This taxable value is assigned by the County Assessor and constitutes the tax base. All property subject to taxation purposes shall be reported once a year to the Assessor's department (§7-38-8 NMSA). The property tax is levied on real property and tangible personal property that is used or held for business purposes (§7-36-8 NMSA). Property owned by governments and certain nonprofit organizations is exempt, while livestock, motor

vehicles, personal property of banks and financial corporations and certain oil and gas properties are subject to separate tax laws. The County may charge an administrative fee on property taxes that are under \$5.00 (§7-38-36.1 NMSA).

The total taxable property value for all counties in 2011-2012 was \$52,846,098,496 decreased from \$54,399,590,798 in 2009. The value is made up of local and state assessed property, copper ad valorem, and oil and gas production. See Appendix B, which reflects the individual property values for each county, the population, and the county. The County Treasurer is responsible for the collection of all property taxes, and is authorized to receive a maximum of \$11.85 per \$1,000 of taxable value for county operating expenses (§7-37-7 NMSA). Certificates of property tax rates for each county, for 2011 and 2012, can be found on the DFA/LGD website, under Budget & Finance Bureau, Property Taxes & Annual Reports.

### **8.3 Low Income Property Tax Rebate**

All BOCCs are required to consider, in January of every odd-numbered year, the question of whether or not to resolve to adopt a local ordinance that would authorize a property tax rebate for low income property tax owners (§7-2-14.3(G) NMSA). If such an ordinance were to be adopted (following the process outlined in the statute, which also involves voter approval of the ordinance), the tax rebate would reduce the net revenues to the County. If such a tax rebate is authorized, the county offering the rebate shall notify the State about the adoption of the ordinance no later than September 1 of the first taxable year to which the ordinance applies. At the end of the year, the County should expect to receive from TRD a certified report with the amount of property tax revenues attributable to the ordinance rebate, and the County is required to promptly remit this amount to the State. The rebate is currently in place only in Los Alamos and Santa Fe counties. Eligibility for the rebates is a modified gross income of \$24,000 or lower.

The law provides for a property tax rebate for senior citizens over the age of sixty-five who file an individual New Mexico income tax return, and who are not dependents of another individual. The statute lists the amounts of such rebate (§7-2-18 NMSA).

There are also exemptions from property tax that are discussed in more detail in other county official manuals, (e.g. *The NM County Assessors Handbook*) such as the veterans and disabled veterans exemptions, and the head of household exemption.

### **8.4 Fees and Licenses**

Fees for county services may be collected by a variety of county departments in a variety of locations, for a variety of types of fees, but all must be deposited promptly with the County Treasurer. Some fees received by the County are set by statute; some fees are set by county policy in the form of an ordinance or resolution. One example of a legislatively set fee is the one on most businesses operating outside of municipal limits, including real estate agents, hotels,

inns, restaurants, amusement places and dealers in merchandise, except liquor. Since 1988, the maximum allowable fee has been \$35.00 (§3-38-3 NMSA). Another example of a statutorily set fee is the authorization for BOCCs to charge an annual tax of up to \$250 to those holding State liquor licenses and operating outside municipal limits [*Note: to collect this fee, the BOCC must pass an annual resolution imposing the fee by June 1 of each year (§7-24-2 NMSA)*].

Examples of fees set by county policy by way of resolution or ordinance are:

- kennel or multiple animal permit
- solid waste pick-up
- water and waste water hook-up
- care of prisoners
- platting and subdivision review
- right-of-way access fees.

Fees set by ordinance and/or the regulations promulgated under authority of ordinance enable the County to enforce collection by prosecuting violators.

### **8.5 Lodgers Tax Act**

The County may impose an ordinance authorizing an occupancy tax, with some exceptions, not to exceed five percent of gross taxable rent (§3-38-15 NMSA). The proceeds from the tax are primarily for advertising, publicizing, and promoting tourist related attractions, facilities and events. Under certain conditions, lodgers' tax proceeds may also be used to defray costs of police and fire protection for tourist-related events, or for acquiring, constructing and operating tourist-related facilities or services.

### **8.6 County Gross Receipts Taxes**

The majority of the governing body of an eligible county may enact an ordinance imposing an *excise tax on the gross receipts* of any person engaging in business in the County for the privilege of doing business (§7-20E-21 NMSA). The tax may be imposed in increments of 1/16th of one percent not to exceed an aggregate rate of 7/16ths of one percent (.4375%). As of July 1, 2010, counties may impose the local option capital outlay gross receipts tax without having to fully impose the prerequisite gross receipts tax increments previously required by statute.

In 2004, the legislature removed the gross receipts tax from food and medical services, but voted to hold local governments harmless from the resulting loss of revenue. The 2010 legislature, in a special session held after the regular session, voted to reinstate the tax on food, but the provision that would have eliminated the local government hold harmless distributions to counties and municipalities was vetoed by the Governor. In 2011, the total amount distributed to counties was almost \$32 million and this amount would potentially be lost if the State were to eliminate the hold harmless provisions.

For a description of each county local option GRT, its reference to statute, and a listing of counties that may, and/or have imposed that increment, see TRD's publication: FYI-C120, *County Gross Receipts Tax Local Options*, revised June, 2012, at <http://www.tax.newmexico.gov/Forms-and-Publications/Publications/Pages/Home.aspx>

## **8.7 Bonding**

The bonding process offers each county an opportunity to generate revenues for specific purposes. General obligation bonds may be issued by the BOCC after approval by a majority vote of property taxpayers (§4-49-5, 12 NMSA). These bonds may be used to construct courthouses, detention centers, bridges, hospitals and facilities for county fairs, cultural and athletic events, libraries, roads, airports, utilities and other facilities (§4-49-7 NMSA). Two restrictions apply to general obligation bonds:

- First, no county may issue bonds that total more than four percent of the assessed value of the taxable property in the County (NM Const. Art. IX, Sec. 13 and §4-49-7 NMSA).
- Second, no bonds can be issued or sold if four years have elapsed from the date on which the first proceedings for the bond election began (§6-15-9 NMSA). This latter restriction does not apply to bond refunding or if the validity of the bonds or the bond election is in litigation.

Issuance of these bonds and other public securities, such as notes and certificates of indebtedness require that the BOCC approve a resolution authorizing the issuance and that the notice of adoption be published in a local newspaper (§6-15-4 NMSA). Refunding of these bonds also requires a resolution from the BOCC (§6-15-12 NMSA).

Not all bonds are defined as a public security (§6-14-2 NMSA). Excluded from this category are revenue bonds and bonds issued by the New Mexico Finance Authority Act to support county projects. Bonds issued under the authority of these acts are not general obligation bonds, and therefore are not part of the county indebtedness.

County recreational bonds are an example of revenue bonds that the BOCC may issue. Such bonds, payable from the cigarette tax, can only be used for county recreational facilities. All counties, with the exception of the one *Class H* county, may issue the bonds by resolution; the *Class H* county must issue these bonds by ordinance because it is a charter (home rule) county. These recreational bonds are not part of a county's general obligation or indebtedness.

When any county debt in the form of a bond or other certificate of indebtedness has been paid, documentary evidence of that debt may be destroyed, but only if the County has first obtained a *certificate of destruction* from the bank or third party paying agent. The certificate must be retained by the BOCC for six years as required by the Bond Election Act (§6-15-23 NMSA).

## **8.8 Special Levies**

There are several laws which provide for the creation of special districts for certain purposes, the cost of which is paid through the issuance of bonds by the County, and repayment is made by assessing those within the special district (See *public improvement districts*, below).

## **8.9 Special Levy by Livestock Board**

This law requires the BOCC to impose a special tax, at a rate set by the New Mexico Livestock Board, for cattle, horses, sheep, goats and other livestock (§77-2-15 NMSA).

## **8.10 County and Municipal Gasoline Tax Act**

This Act (§7-24A-1 through 21 NMSA) authorizes *Class A* and *Class H* counties to impose by ordinance a tax on gasoline sold outside of municipal boundaries. The tax may be as much as two cents per gallon in increments of one cent. After adoption, an ordinance approved under this Act must be approved by the voters. The proceeds may be used to meet public transportation needs as outlined in the statutes (§7-24A-3 NMSA), which also includes the establishment and/or operation and maintenance of a vehicle emissions inspection program.

## **8.11 Special County Gasoline Tax**

Qualifying counties (definitions section narrowly defines “county” by population and net taxable value) are authorized to impose by ordinance, a tax on gasoline sold outside of municipal boundaries (§7-24B-1 through 10 NMSA). The tax may be as much as two cents per gallon, in increments of one cent. The proceeds shall be used for the operation and maintenance of a county-owned hospital. The ordinance is subject to referendum within sixty (60) days after the ordinance is adopted. This tax is in effect for five years, and may be extended in additional five year terms.

## **8.12 Public Improvement Districts**

This Act (§4-55-1 *et seq.* NMSA) provides a process by which the property owners within a particular geographical area are assessed a special levy, which pays for needed or desired improvements financed through the issuance of public improvement bonds as authorized in the Act. The Act allows residents to petition, or the BOCC to order, the creation of a public improvement district (PID). If the district is created, the parcels within the district are assessed a special levy over a ten or twenty-year period to repay the bonds issued to finance the construction of the drainage/flood controls, road paving, sidewalks or other public improvement.

Neither the County’s General Fund, nor other revenue streams are committed; the outstanding balance is equivalent to a lien against the property until paid in full. The proceeds from the issuance of these bonds and the construction projects must be administered by county staff, but it is the property owners that are assessed, not the public at large.

### **8.13 Tax Increment Development Districts**

Tax Increment Development Districts (TIDDS) are a mechanism for providing gross receipts tax financing and property tax financing of public infrastructure, for the purpose of supporting economic development and job creation (§5-15-1 through 28 NMSA). TIDDS plans must be approved by a BOCC or by the governing board of a city within which the TIDDS projects are proposed.

### **8.14 State Revenue Sources**

County governments in New Mexico share in a number of state government-administered-and-collected taxes. Major state revenue sources include the *gasoline and cigarette taxes* and *motor vehicle registration and transaction fees*. State-shared revenues account for approximately one-fifth of all county revenues. The New Mexico Legislature also has traditionally provided funds to counties for use in capital improvements on an individual county needs basis, although these funds have recently been severely curtailed, and in some cases, voided, because of the shortfall in state revenues.

### **8.15 Gasoline Tax**

An excise tax of 17 cents per gallon is levied by the State on all gasoline received in New Mexico and is paid by gasoline distributors (§7-13-3 NMSA). Gasoline sold for export from the State and then sold to the federal government or its agencies is exempt from the tax with some credits and refunds allowable. Currently, 5.76% of the net receipts attributable to the gasoline tax are deposited by the State in the *county government road fund* (§7-1-6.19 NMSA). Revenues are distributed from the fund to each county based upon population and the proportionate share of roads in each county relative to the total miles of county roads in the State (§7-1-6.26 NMSA).

In addition, a *special fuel excise tax* of 21 cents per gallon is levied on diesel fuel, kerosene and all other alternative fuels used to propel motor vehicles (§7-16A-3 NMSA). Currently 11.11% of total *special fuel tax* proceeds are distributed to the road fund for allocation to the counties.

### **8.16 Cigarette Tax**

This excise tax was increased by 75 cents per pack in 2010 (§7-12-1 through 17 NMSA) on cigarettes sold, given, or consumed in the State. Cigars are not taxed under the Act. The distribution of receipts from the Cigarette Tax Act to the County/Municipal Recreation Fund and the County/Municipal Cigarette Tax Funds were reduced by the legislature, but the Governor's veto of the bill removed these distributions entirely, and gave those revenues to the State General Fund.

### **8.17 Motor Vehicle Fees**

Motor vehicle registration fees are levied according to the type, age, use and weight of the

vehicles. The fees that are levied on motorcycles, passenger cars, trailers, trucks, road tractors, buses, vehicle manufacturers and dealers, wreckers, travel trailers, mobile homes and horseless carriages vary. Revenue from the balance in the motor vehicle suspense fund is distributed monthly according to statutory formulas ( §66-6-23 and 23.1 , 66-5-33.1 (B); 66-5-408 (A) NMSA).

### **8.18 Law Enforcement Protection Funds**

The Act (§29-13-1 through 9 NMSA) provides limited funds to municipal and county Police and Sheriff Departments for maintenance and improvement of those departments. The funds are provided from fees, licenses and taxes paid to the State from the life, general, casualty and title insurance industry (§29-13-3 NMSA). The act outlines a distribution formula that provides annual payments of \$20,000 for counties with populations less than 20,000 persons, to \$40,000 for counties with populations greater than 160,000 persons. In addition, the Act pays \$600 each year per full-time Sheriff's Deputy (§29-13-4 NMSA).

### **8.19 Local Government Corrections Fund**

In 1983, a fund was created in the State treasury for the transfer of funds collected by courts to counties and municipalities (§33-3-25 NMSA). The fund is administered by the Administrative Office of the Courts. Monies are made available for:

- training jailers or juvenile detention officers
- construction planning, construction, maintenance and operation of county detention centers or juvenile detention facilities
- matching required for the receipt of federal funds.

Quarterly payments are made to the counties from penalties and fees collected by magistrate or metropolitan courts and fines paid to the Motor Vehicle Division of TRD. Exceptions include penalties and fees collected by a metropolitan court which are prorated between the county and the municipality based on whether the offenses were committed within the jurisdiction of the county or municipality (§33-3-25 NMSA).

### **8.20 Small County Assistance Act**

This Act (§4-61-1 NMSA) provides funds to assist small counties meeting the specific requirements of a population of 48,000 or less, which impose property taxes of at least \$8.85 per \$1,000 of net taxable value. Qualifying counties received between \$93,000 and \$609,000 in September of 2010, based on their statutory eligibility. The base distribution is increased for counties imposing the 1/16<sup>th</sup> % general gross receipts tax increment and the jail increment. See <http://www.tax.newmexico.gov/Forms-and-Publications/Publications/FYI-Publications/Pages/Home.aspx> for a description of these increments. The small county funds are provided from compensating taxes collected by the State.

### **8.21 Miscellaneous Revenues**

Counties may also receive funds from the State in minor amounts from the Fire Protection Fund (§59-53-1 *et seq.* NMSA), the State Racing Commission, and for housing felony offenders in county detention facilities (§33-3-25 NMSA). An increase in the amount of money payable to county government from the Fire Protection Fund, which had in part been going to the State General Fund, was authorized by the legislature in 2007, but has been delayed because of State General Fund deficits. The annual authorization for the County Detention Facility Fund has been *shaved* several times, also because of state revenue shortfalls.

Fees resulting from the federal Taylor Grazing Act are also available to counties for special purposes (§6-11-5 NMSA). Eligible counties place the fees in the *farm and range improvement fund*, which is administered by the President of New Mexico State University or his appointee (§6-11-6 NMSA). These fees are to be used for conservation of soil and water, and rodent control, and are not administered by county officials.

### **8.22 Severance Tax Bonds**

This Act (§7-27-1-27 NMSA) authorizes the New Mexico Board of Finance Division (BOF) of DFA to issue and sell severance tax bonds. By January 15 of each year, the BOF must estimate the amount of bonding capacity available for severance tax bonds to be authorized by the legislature. The division authorizes ten percent (10%) of the estimated bonding capacity each year, and the legislature authorizes the BOF to issue severance tax bonds in the annually deducted amount for use by the Water Trust Board to fund water projects statewide, with some exceptions specified in the statute.

The BOF is required to schedule the issuance and sale of the bonds in the most expeditious and economical manner possible, upon a finding by the Board that the project has been developed sufficiently to justify the issuance, and that the project can proceed to contract within a reasonable time. Any unexpended or unencumbered balance reverts to the Severance Tax Bonding Fund.

### **8.23 Federal Revenue Sources**

A number of federal government programs provide funds for county governments. The major sources in recent years have been pass-through funds and grants for emergency relief, employment assistance and law enforcement assistance.

### **8.24 Payment-in-Lieu-of-Taxes**

As a result of the Payment-in-Lieu-of-Taxes Act, codified at 31 U.S.C. 6902 *et seq.*, counties receive a significant amount of revenue for federally owned lands that are located within the counties. Payments in Lieu of Taxes (PILT) are federal payments to local governments that help offset losses in property taxes due to nontaxable federal lands within their boundaries. The

Department of Interior distributed \$32,205,935 to New Mexico counties in 2010. This was a significant reduction from the \$37,013,334 distributed the previous year (chart of PILT distribution available at <http://www.tax.newmexico.gov/SiteCollectionDocuments/NM-Payments-in-Lieu-of-Taxes-FY2012.pdf>).

The only New Mexico county not qualifying for PILT funding is Curry County because it does not contain qualifying non-taxable federal lands.

The amount of payments to local governments varies according to several factors built into a formula, which basically provides that the County will receive the greater of seventy-five cents per acre of entitlement land located within the boundaries of such unit of local government, reduced by the amount of payments already received pursuant to other existing laws during the preceding fiscal year (eliminate double compensation for the same federal lands), or ten cents per each acre of entitlement land located within the boundaries of such unit of local government. The law defines entitlement lands as:

- National Park System and National Forest System lands, including wilderness areas
- lands administered by the Secretary of the Interior through the Bureau of Land Management
- federally owned lands dedicated for use of water resource development projects.

After the determination regarding the amount of the payment for federally-owned land is made as described above, a third factor is introduced into the formula: population according to the most recent U.S. Census. This is used to determine the maximum amount of the payment to be made to any local government, in order to ensure that local governments do not receive funds for which there is no real need. In other words, the federal government does not intend to create wealth for local units; rather, it intends to help local governments that might have suffered from lost revenues resulting from federal ownership of lands.

### **8.25 Construction Grant Programs**

The Housing and Community Development Act of 1974 made federal funds available to counties for community development programs. This Act consolidated Housing and Urban Development (HUD) programs in community development, housing and planning and made changes in housing programs administered by the Department of Agriculture. Non-metropolitan areas (cities under 50,000 population and rural areas) are targeted to share in the annual grants.

The current HUD Program is known as the Community Development Block Grant (CDBG) Program. Most counties and municipalities have utilized this program to provide assistance to persons of low and moderate income levels. The intent of the program is to provide a suitable living environment, decent housing, essential community facilities and expanded economic opportunities. Certain restrictions apply and counties must meet eligibility requirements. Other

federal grants and loans are also available for specific projects, including transportation, recreation and water and sewer facilities.

Contact the Community Development Bureau at the Local Government Division in Santa Fe for further information regarding grants and loans.

The HOME Investment Partnerships Program is another HUD program administered by the State. HOME provides funds for housing projects and has been used successfully by counties and municipalities throughout New Mexico.

Contact the New Mexico Mortgage Finance Authority for more information.

### **8.26 Tax Liability in Federal Areas**

No person is relieved of liability for any tax levied by the State or duly constituted taxing authority by reason of residing within federal area, having property within a federal area or engaging in business within a federal area.

## **CHAPTER 9**

### **FINANCIAL ADMINISTRATION**

Revised 2012 by County Manager Jan Porter-Carrejo and County Attorney Dave Pato, Esq.

Financial administration of a county encompasses many different facets. As with many other areas of county operation, an elected official best serves their constituents, the public at large, and the County as an entity by attempting to learn from, to understand and to cooperate with the other elected officials and other county representatives. It is also helpful for the Board of County Commissioners (BOCC) and its administrative staff members to develop a close working relationship with the New Mexico Department of Finance and Administration (DFA), especially with the Local Government Division (LGD), which approves or rejects each county budget and has significant, if not absolute, control over certain county financial matters.

Some of the functions that the BOCC shares with other county officials and representatives relating to county finances are:

- preparation and approval of the County's budget
- purchasing and contracting for goods and services
- depositing and investment of the County's funds
- receipt and accounting for all funds received and expended by the various county departments
- issuance of bonds
- collection and monitoring activities authorized by the bond process, including
  - the collection of special levies or assessments
  - the collection of property taxes and other income due the County.

The fact that authority to act is spread amongst more than one elected office, and that the BOCC has several department divisions to assist it with its administrative functions, requires the timely and cooperative communication between all involved county elected officials, other department directors, and their respective staff members.

#### **9.1 Specific Statutory Duties**

Some of the specific duties/authorizations assigned to the BOCC are:

- The BOCC serves *ex officio* as the County Board of Finance (Section 6-10-8 New Mexico Statutes Annotated)
- The BOCC must examine and settle all accounts of receipts and expenses of the County and all accounts chargeable against the County (§4-38-16 NMSA).
  - Accounts must be itemized and the Board can disapprove all or part of the accounts (§4-45-3 NMSA)

- The BOCC is responsible for assuring that a statement of receipts and expenditures is prepared on an annual basis (§4-38-27 NMSA)
- If the BOCC approves the payment of county funds without the authority of law, they are liable for the amount paid out, as well as the costs and fees associated with collecting those funds (§4-38-28 NMSA)
- The BOCC may impose, by ordinance, various local option gross receipts tax increments, as described in FYI-C120.
- The BOCC may issue revenue bonds upon approval from a majority of all the members of the Board (note: this is different from a majority vote of the Board present, which might be a majority of a quorum and less than the full Board) and may issue general obligation bonds after election and voter approval
- The BOCC, and/or its staff, serve as an agent of the United States Government for the expenditure of money authorized by U.S. Congress (§4-36-3 NMSA)

Despite this seemingly extensive authority, the BOCC, as manager of the County's funds, is subject to many other internal and external controls.

For example:

- The BOCC has no authority to divert money from one fund to another.
- If Commissioners attempt to pay warrants drawn from improper funds, the County Treasurer must refuse to pay the warrants.
- If a county has a history of problems with the budget and/or violates LGD's rules and regulations on a regular basis, the State (through the DFA Secretary) has the right to step in and take over the County's fiscal matters, in accordance with the statutory processes for same (§10-5-2 NMSA).

## **9.2 County Board of Finance**

The BOCC constitutes the *ex officio* Board of Finance.

- The purpose of the Board of Finance is to coordinate with the Treasurer to determine the qualifications and selection of banks, savings and loan institutions, credit unions and other institutions to receive the County's deposits.
- The County Treasurer is responsible for the investment and safekeeping of public funds.
- The County Clerk serves *ex officio* as the Clerk for the Board of Finance. Board meetings are held upon request of the Treasurer or whenever the Board deems it necessary (§6-10-8 NMSA).

## **9.3 Deposits and Investments**

The County Treasurer, with the advice and consent of the Board of Finance, makes the deposits and investments (§6-10-8 NMSA). Investment of sinking funds (See *General Obligation Bonds*,

below) also requires the consent of the Board of Finance (§6-10-10 NMSA). In some counties, the Board of Finance formally delegates the authority relating to investments to the County Treasurer or other staff member competent in the field. In all cases, however, the Board retains ultimate responsibility.

County funds must be deposited in one or more accounts in federally insured banks, saving and loan institutions or federally insured credit unions within the County. Statute allows the requirement of additional security for the deposit of public money (§6-10-16 NMSA).

Deposits to interest earning accounts may be made to qualified institutions, but must be distributed equally throughout the County (§6-10-36 C NMSA). No county may make such deposits in institutions outside of that county (§6-10-31 NMSA).

The rate of interest on all interest bearing accounts shall be set at least quarterly by the New Mexico Board of Finance (NMBOF) and in no case shall the rate be lower than 100% of the price of the United States treasury bills. Any institution not paying this rate forfeits any right to an equitable share of deposits. Also, if the financial institutions do not pay the interest rate set by the NMBOF, then statute allows the County to place money not immediately needed into a short term investment fund at the State Treasurer's Office (§6-10-10.1 NMSA). These short term investments should not exceed thirty days. Deposits of funds may be made in non-interest-bearing checking accounts to one or more qualified financial institutions located within the boundaries of the County (§6-10-36B NMSA). In all cases of deposits or investments, bank statements are due on the first day of each month and shall be provided to the State Board of Finance and to the County Treasurer (§6-10-29 NMSA), as well as to the County Manager and Finance Director.

#### **9.4 Filing of Monthly Financial Statements**

All county departments receiving and disbursing public money are required to file monthly financial statements with the County Clerk on the first Monday of each month. The financial report is to detail the amounts of all public monies received and disbursed by the department, and is to be verified. The BOCC's duty is to audit and adjust the reports in accordance with the facts (§10-17-4 NMSA).

#### **9.5 Budgeting**

The county budget is not something that happens once a year, but rather is an ongoing process that needs and deserves county officials' time, patience, cooperation, and devoted attention throughout the entire year.

The annual budget is the County's financial statement of expected income and planned expenditures for the fiscal year. The BOCC, or its budget officer, who is frequently also the

County Manager, must plan the amount of money required to meet the County's needs. Specifically, each department estimates and justifies their operational needs. Management reviews the compiled departmental estimates and balances out a provisional budget. If there are more requests than revenues, cuts are made.

Some counties hold a series of both internal and public meetings during which members of the staff and the public respectively express their views and opinions regarding county priorities. Records of cuts must be kept since the BOCC and/or State Legislature may wish to know the reasons why cuts were made. Once the BOCC has approved the preliminary budget, it is transmitted, no later than June 1, to DFA/ LGD for its review and approval. The final budget must be submitted by July 31.

The fiscal year begins on July 1 and ends on June 30 (§6-10-1 NMSA). The statute provides that LGD must receive an approved, preliminary, proposed budget from each BOCC by June 1. The approval from LGD is due, by law, on the first of July (§6-6-2B NMSA). The division is to certify to each county its final budget and property tax rates before the first Monday in September of each year (§6-6-2E NMSA).

The final step in the budgetary process is budget execution. As revenues are received, the County Treasurer verifies their receipt and deposits them in banks or savings and loan institutions designated as official depositories for county funds (§6-10-36 NMSA). The county departments should be provided monthly statements reflecting the revenues/payments/deposits credited, and expenditures made, in order to enhance the monitoring of budget compliance countywide throughout the year.

Once a budget is approved, a transfer of funds from one line item to another is not allowed unless approved by LGD (§6-6-2G NMSA). No expenditures or claims shall be made in excess of the operating budget. At the end of the year, excess monies, if any, shall be applied to the budget estimate for the next succeeding year (§4-51-1 NMSA) or may be deposited in a Local Government Permanent Fund (§6-6-19 NMSA).

## **9.6 Accounting**

The BOCC fulfills several specific duties in the area of accountability for money received and expended within the County. Each January, the BOCC must see to it that an annual statement of receipts and expenditures is prepared (§4-38-27 NMSA). The BOCC must also examine and settle all accounts of receipts and expenditures for the County (§4-38-16 NMSA). All accounts must be itemized so that the BOCC can approve or disapprove them (§4-45-3 NMSA).

Every four years, or at the end of term of the elected Treasurer, the County Treasurer is required to make a full and complete settlement with the BOCC and deliver in the presence of the County

Clerk all books, papers, and other property to the new Treasurer. The BOCC is then required to file a comprehensive financial statement with the State Auditor including all unfinished business of the previous County Treasurer that is passed on to a successor. The books must be balanced before being passed on to the successor (§4-43-4 NMSA).

The LGD prescribes the form for all budgets, books, records, and accounts used by county governments (§6-6-2 NMSA). The Statewide Uniform Budgeting System is a means of evaluating the total performance of a county government; it introduces other measures such as budget performance, outstanding encumbrances, fixed assets, control and usage of funds and efficiency of programs and services.

### **9.7 Local Government Permanent Fund**

The law provides that the BOCC may establish a Local Government Permanent Fund and a Local Government Income Fund (§6-6-19 NMSA).

- Un-appropriated General Fund surplus in excess of fifty percent (50%) of the prior fiscal year's budget may be deposited into the Permanent Fund.
- The Permanent Fund is appropriated and expended only by approval of the voters of the County.
- Earnings from Permanent Fund investments are to be deposited in the Local Government Income Fund.
- Money in the Income Fund may be budgeted and appropriated for any purpose.

### **9.8 Revenue Collecting**

As the county officials responsible for the levying of taxes, the BOCC plays a role in the collection of revenues. The County Treasurer is directly responsible for the collection of taxes, while the BOCC orders the amount of the levy.

Property tax imposition and collection are detailed in the New Mexico Property Tax Code (§7-35-1 through 7-38-93 NMSA). Under these provisions, the BOCC must issue its written order imposing tax rates within five days of receiving DFA's rate-setting order, which is due by September 1 (§7-38-33, 34 NMSA). By October 1, the County Assessor must prepare the property tax schedule for the County (§7-38-35 NMSA). By November 1, the County Treasurer mails the property tax bills, which are payable in two installments, by November 10 and April 10 (§7-38-38A NMSA). Property taxes of \$10 or less must be paid in one annual payment. The maximum allowable tax rates are set forth in the statutes (§7-37-7, 7-37-7.1 NMSA). The property tax revenues are distributed by the County to the County for use for general purposes, to the school districts, and to municipalities.

The County is entitled and mandated to collect an administrative fee from most *ad valorem* property tax revenue recipients, in an amount of one percent (1%) of the revenue to be received by the revenue recipient. Such fees are deposited in the County Property Valuation Fund, which

is expended at the recommendation of the County Assessor, subject to the approval of the BOCC (§7-38-38.1 NMSA).

No later than June 10 of each year, the County Treasurer is required to mail notice to each property owner of property for which taxes have been delinquent for two years, advising that the delinquent taxes will be transferred to the TRD for collection (§7-38-60 NMSA). TRD has the responsibility to take all action necessary to collect delinquent taxes, including sale of the property (§7-38-62 NMSA).

### **9.9 General Obligation Bonds**

Article IX, Section 10, of the New Mexico Constitution states that no county may borrow money except for the following purposes:

- Erecting, remodeling and making additions to necessary public buildings
- Constructing or repairing public roads and bridges
- Constructing or acquiring a system for supplying water, including the acquisition of water and water rights, the necessary real estate or rights-of-way and easements
- Constructing or acquiring a sewer system, including the necessary real estate or rights-of-way and easements
- Constructing an airport or sanitary landfill, including the necessary real estate or rights-of-way and easements
- The purchase of books and other library resources for libraries in the County.

The statutes clarify that “public buildings” include detention centers, juvenile detention facilities, hospitals, libraries, recreation and athletic facilities, fair facilities and cultural facilities, as well as similar other facilities.

General obligation bond indebtedness can only be created to finance the construction or acquisition of specific public projects, and only if voted on and approved by the registered voters of the County. The general obligation bonds are repaid through property taxes. The total value of all outstanding general obligation bonds cannot exceed four percent of the total assessed value of county property (§4-49-7 and NM Const. Art. IX, Sec. 13). Bonds or other obligations in excess of four percent are invalid.

General obligation bonds, with the exception of refunding bonds, must mature within 20 years of the date of issuance. Interest must be payable semiannually or annually (§6-5-3 NMSA). Furthermore, the issuance of the bonds will be time-barred if they are not issued within four years of the date of the election (§6-5-10 NMSA). This time limitation does not apply to bond refunding.

A sinking fund may be used to secure payment of the principal, or principal plus interest, on general obligation bonds, and may be created by a resolution or ordinance by the BOCC (§6-15-22 NMSA). The income generated by the sinking fund may be invested, reinvested, or deposited in a bank under an escrow agreement.

### **9.10 Revenue Bonds**

Counties may issue, pursuant to statute (§4-62-1 through 10 NMSA):

- Gross Receipts Tax Revenue Bonds
- Fire Protection Revenue Bonds
- Environmental Revenue Bonds
- Gasoline Tax Revenue Bonds
- Utility Revenue Bonds
- Project Revenue Bonds

No county can issue revenue bonds pledging revenues that are not being collected or received.

In addition, the County Industrial Revenue Bond Act (§4-59-1 NMSA *et seq.*) authorizes counties to induce industry to locate to their county in order to spur economic development. This Act allows the issuance of Industrial Revenue Bonds to be used to finance the proposed business project. When deciding whether or not to accept the project and adopt an inducement resolution (one of the first steps in the industrial revenue bond process), the BOCC should apply objective criteria, preferably reduced to a written policy, setting forth the factors they will consider before granting a request.

In other words, when the policy is applied consistently, the result should be that the type of business the BOCC intends to attract to the County is permitted to proceed.

Some factors that the BOCC may wish to use in considering and prioritizing these requests include:

- water usage
- environmental hazards
- risk of pollution or contamination
- the types of jobs to be created
- number of jobs to be created
- the expected hourly rate or salary for these jobs
- the county of residence of future employees

The financial viability of the prospective industry is another factor that should always be carefully examined and considered during each part of the multi-step process.

## **9.11 Purchasing**

An extremely important and daily administrative function of the BOCC is that of purchasing. The State's Procurement Code (§13-1-28 through 199 NMSA) applies to all expenditures by state agencies and local public bodies for the procurement of items of tangible personal property, services, and construction, unless specifically exempted or excluded by the Code (§13-1-30 NMSA).

Unfortunately, there are a tremendous number of exclusions and exemptions contained in the voluminous act that make it confusing and sometimes difficult to assess whether a proposed purchase is subject to the Code. In those cases, it is advisable to err on the side of free competition and issue a bid.

Counties are, as local public bodies, excluded from the requirement to purchase through the State's Central Purchasing Office. This does not mean however that counties are excluded from following procurement process. Though counties may adopt their own purchasing rules and regulations, which may be more stringent than the State's, in the absence of local regulation, counties must follow the State's Procurement Code.

The Procurement Code requires that each county centralize its purchasing function in one officer or office responsible for making all purchases for the County (§13-1-97 C NMSA). This office ensures that state and county procurement rules are followed by the various departments, and that federal laws are complied with when federal funds are involved in a project. Federal laws usually involve equal opportunity, equal access, wage rates and minimum wages, environmental standards and other affirmations relating to compliance with the laws.

Ideally, each county Central Purchasing Office provides training to the other county departments regarding the federal, state and local requirements for purchasing, as well as the forms and other procedures adopted by the County, to make it easier for all to understand and to abide by.

Some highlights of basic public procurement law follow:

- There are numerous items of goods or services that the Legislature has exempted from the provisions of the Procurement Code. The pertinent exceptions are listed in Section 13-1-98 NMSA.
- Small purchases are not subject to competitive bid, although other more informal requirements apply, to allow for fair competition.
  - A small purchase is defined as a tangible good not exceeding \$20,000 in cost, and a professional service not exceeding \$50,000 (§13-1-125 NMSA).
  - County regulations, however, may impose more stringent requirements than those found in the Procurement Code.

- Procurement of professional services such as accounting, architectural, engineering, surveying, legal and medical services are not subject to pricing controls, and are decided on the basis of qualifications and the respondent whose offer is most advantageous to the County.
- When no exceptions apply, invitations for sealed competitive bids must be published at least ten days in advance of any date set for opening of the bids (§13-1-104 NMSA) and must include specifications for the goods or services, terms, conditions, date, time and place of the bid opening (§13-1-103 NMSA).
  - Bids are to be evaluated based upon objective criteria also provided in the bid specifications.
  - Bids are to be opened in a public meeting with written notice sent to the lowest responsive bidder.
- When the County awards a construction contract that exceeds \$25,000, the contractor must provide a performance bond (§13-4-18 NMSA).
- Bonds for contracts under \$25,000 may be required at the discretion of the County, which should be included in the bid specifications.
- The bond may be reduced to less than 50 percent (50%) of the contract price when it is determined that it is less costly and more advantageous for the County to self-insure a portion of the performance of the contractor.
- The purchasing agent for the County is usually involved in the disposition of unused or obsolete property.
  - The regulations governing the sale or other disposal of public property are contained in Section 13-6-2 NMSA.

## Notes

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**CHAPTER 10**  
**COUNTY SERVICES AND FUNCTIONS:**  
**COUNTY PROPERTY**

Revised 2012 by County Attorney Douglas Decker, Esq.

The County may purchase real and personal property for its use. The Board of County Commissioners (BOCC) must designate a Central Purchasing Office, which is responsible for all county purchasing, and for keeping records of all county inventories. The Procurement Code is that set of laws and regulations that applies to expenditures by state agencies and local public bodies for the procurement of items of tangible personal property, services, and construction (Section 13-1-28 through 13-1-199 New Mexico Statutes Annotated).

The purchasing agent serves an important function in assisting the County with the acquisition, transfer, and disposal processes for real and personal property. Although real estate transactions are not governed by the Procurement Code, the principals of the procurement process can be seen in the statutes which do apply to the purchase, lease and conveyance of real property.

All accounts payable vouchers require BOCC approval before warrants are issued. However, to take advantage of discounts or to ensure the timely payment of utility bills, the BOCC may authorize the County Clerk or County Manager to approve vouchers for payment prior to the Commission meeting.

The BOCC is also empowered to make all contracts and to exercise its corporate powers (§4-38-1 NMSA). Any real or personal property that is transferred to any county becomes the property of that county (§4-36-4 NMSA).

The BOCC has the power to make, at any session, orders deemed necessary concerning county property (§4-38-13 NMSA).

The BOCC is authorized, and has a duty to, build and keep in good repair all county buildings, and to otherwise manage county property in the best interest of the County (§438-18 NMSA).

**10.1 Unfunded Mandates**

Unfunded mandates require the counties to provide facilities for the State without funding from the State, and the utilities and other expenses required increase from year to year. These mandates do not violate the Unfunded Mandate Clause of the New Mexico Constitution (Article X Section 8), as that clause only prevents State Agencies from issuing a rule or regulation without the State providing sufficient new funding or a means of new funding to the County to pay the cost of the mandated activity. The Legislature, by statute, is not prevented from issuing mandates funded or unfunded.

One such mandate is the requirement to provide adequate quarters for the District Attorney and the District Courts, which could also include juvenile probation services (§34-6-24 and §36-1-8.1 NMSA), and providing suitable quarters for the County Health Department and the District Health Officer, including office space for all involved, clinic space for patients and waiting area for patients, families and friends (§24-4-2 NMSA).

## **10.2 Disposal of Property**

See relevant statutory references for guidance:

- For the disposal, sale or lease of both tangible personal property and real property (§4-38-13, 13-6-1 *et. seq.* NMSA)
- For conveyance to municipalities and state agencies (§4-47-2 NMSA)
- For leasing to non-profit organizations (§4-38-13.2 NMSA) along with the anti-donation clause of the New Mexico Constitution at Article IX section 14.

The BOCC may also sell excess county buildings and/or land to private persons at a public auction, after appraisal and application to, and approval by, the District Court. The property cannot be sold for less than two-thirds of its appraised value (§4-47-4 NMSA). For certain transactions, approval of the State Board of Finance or other appropriate approval agency must be sought and obtained (See also §13-6-2, 13-6-2.1 NMSA).

The BOCC may also dispose of any item of tangible personal property including obsolete, worn-out or unusable property, and delete the item from the public inventory, by following the procedures and processes as listed (§13-6-1 NMSA).

Some of the requirements include:

- a specific finding by the BOCC that the item of property is valued for resale at five thousand dollars (\$5,000) or less
- a finding that the item is worn-out, unusable or obsolete such that it is no longer economical or safe for continued use by the County
- the BOCC must designate a committee to approve and oversee the property disposition
- the BOCC gives notification to the State Auditor and other appropriate approval authorities
- no property may be donated to an employee or relative of an employee of the County
- however, an employee of the County may participate and bid for public property at a public auction.

## **10.3 Insurance**

It is the responsibility of the BOCC to insure all county buildings and facilities against loss and damage. Public buildings must be covered for at least 80% of their replacement cost or cash value (§13-5-3 NMSA). The County can buy insurance from a private company as long as the insurance company complies with the laws of New Mexico. The County can also

set a self-insured reserve for the amount required, or use a combination of private insurance and self-insured reserves. The BOCC may also authorize insurance programs to protect against loss or damage to tangible personal property.

Through a Joint Powers Agreement, the New Mexico Association of Counties has created two self-insurance pools that are available to counties for covering their obligation regarding property, errors and omissions; workers compensation; etc. These self-insurance pools, although technically not insurance companies, meet all the qualifications by pooling multiple counties together to establish the needed reserves for self-insurance.

A crucial area of potential liability for counties is that of ensuring that all county buildings and other buildings leased or otherwise used by the County for public functions are accessible to all members of the public, including those in wheelchairs and those with other disabilities such as hearing and seeing impaired individuals. The BOCC should inquire about the status of equal public accessibility within their county; all counties must be in compliance with the specific standards set forth in the Americans with Disabilities Act, which imposes stiff penalties for noncompliance.

#### **10.4 Joint Powers Agreements / Joint Projects**

The Joint Powers Agreements Act (§11-1-1 *et. seq.* NMSA) recognizes that counties and other public entities may enter into agreements with each other to jointly exercise authority common to both of them; such agreements must be in the form proscribed by, and then approved by Department of Finance Administration/ Local Government Division (DFA/ LGD). An example of a multiple county JPA is the creation of the Workers Compensation Pool and the Multi-Line Pool for insurance coverage. Other uses may include regional emergency communications authorities and regional solid waste authorities, both of which can be composed of multiple counties, municipalities and state agencies.

A county and a municipality may, as a Joint Project, jointly acquire buildings and sites either wholly within the County or the City (§5-5-4 NMSA). Such action requires a county resolution passed by two-thirds vote and a municipal ordinance passed by at least three-fifths vote. Examples of joint projects are regional jails, libraries, museums, communications offices, and administrative buildings (§5-5-3 NMSA).

#### **10.5 Miscellaneous**

The BOCC may use its road or heavy equipment to remove snow from roads within its territory that are used for school bus routes (§22-16-10 NMSA). This does not create the ability to remove snow from driveways or private property to get to the designated school bus route (NM Constitution, Art. IX, Sec. 14).

The BOCC (except in the five Class A counties) may contract for the use of county equipment or property for the benefit of community ditch organizations, mutual domestic water associations or other public entities providing services to significant groups of county residents (§4-38-13.1(A) NMSA).

A BOCC may contract for the use of county buildings for the benefit of nonprofit organizations demonstrating a consistent history of service to sick and indigent persons in the County, which services could legally be expected to be provided by a governmental entity, at rates these organizations can be reasonably expected to pay while maintaining their full service commitment to their respective constituencies. Such contracts must set forth the respective value of services being provided to county residents and the relative value of the use of property provided by the County (§4-38-13.1(B) NMSA), along with the Anti-donation Clause of the New Mexico Constitution(Art. IX, Sec. 14).

**CHAPTER 11**  
**COUNTY SERVICES & FUNCTIONS:**  
**ROADS, HIGHWAYS, BRIDGES AND AIRPORTS**

Revised 2012 by County Manager Jan Porter-Carrejo and County Attorney Dave Pato, Esq.

The Board of County Commissioners (BOCC) is responsible for the general control and management of all roads, highways and bridges within its jurisdiction. Implicit within the County's obligation to maintain and keep in repair all public highways, except those owned and operated by private corporations and those highways within the corporate limits of any incorporated city or town, is the recognition of the County's authority and responsibility to develop county road standards. (Section 67-2-2 New Mexico Statutes Annotated).

The exception includes those federal roads, state roads, and highways traversing the County, including the Interstate, which are maintained by the New Mexico Department of Transportation (NMDOT), and sometimes by the County, upon request and a written agreement between the State and the County.

A second and more troublesome exception are those private easements and rights of way, traveled by the public, but which have not been dedicated to, nor accepted by, the County. Both dedication and acceptance is required before the County may accept a road for use as a public road. Counties typically do not accept every piece of land donated or dedicated to them because of the great potential for accepting an easement that is not capable of being built to industry standards, or one for which the County does not have funding to bring it up to such standards.

**11.1 General Laws relating to County Roads**

The BOCC is authorized to establish, alter, or discontinue any road running through precincts in its county (§4-38-24 NMSA).

**11.2 Local Government Road Fund (LGRF)**

The State Treasury administers the Local Government Road Fund (LGRF), and receives all income from the investment of the LGRF (§67-3-28.2 NMSA). It transfers funds from the State Road Fund to the LGRF to facilitate cash flow for funding of local road projects. The State requires a twenty-five percent (25%) county match of any entitlement amount given to county projects.

**11.3 Financial Hardship Qualification**

In 2009, the legislature authorized NMDOT to distribute monies, not to exceed \$1 million, from the LGRF to municipalities and counties that demonstrate financial hardship in meeting the local match requirements. Qualification for this money requires provision of a financial hardship qualification certificate issued by DFA.

#### **11.4 Surplus Personal Property Donation**

The 2009 legislature also authorized NMDOT to donate available surplus personal property or material to a local government to repair damage to public roads, highways and bridges, if the local government can certify that they do not have funds available to purchase such materials.

#### **11.5 County Road Fund**

The account for roads and bridges is referred to as the County Road Fund (§67-4-1 NMSA). This fund is generated primarily from property taxes and fuel taxes returned from the State Treasury. The U.S. Department of Agriculture may allocate monies to some county road funds (§6-11-2 NMSA). The transfer of monies from the County Road Fund to any other county fund is unlawful (§67-4-11 NMSA). Cash transfers can be made from the County's General Fund to the road fund, with prior approval from the DFA/ LGD.

Whenever there are not sufficient funds available in the state road fund for maintenance of all state highway mileage in any county, the State Transportation Commission shall certify, to the BOCC of the impacted county, the sections of highway mileage that it is unable to maintain at the State's expense, and these sections shall thereafter be maintained at the expense of the County until such time as there are state funds available to maintain them (§67-4-13 NMSA).

#### **11.6 Grants and Awards**

Often, grants and awards will be offered for the construction and maintenance of highways and county roads. A primary method for transferring state funds to the counties is the local government's road fund, which is administered by the NMDOT. It funds the very popular use of cooperative agreements. Counties that provide a contributing match of twenty five percent (25%) are given preference in obtaining cooperative agreements (§67-3-28.2 NMSA). Hardship waivers may be authorized annually by the NMDOT to cover the County's match. The local government's road fund also provides funds for school bus routes and for prioritized construction and maintenance projects. Some counties receive as much as \$300,000 each year for such prioritized projects (§67-3-28.2 NMSA).

#### **11.7 Reporting of County Maintained Road Mileages**

By April 1 of every year, the BOCC must file a report with the NMDOT affirming the total mileage of public roads maintained by the County. Each road shall be identified by name, route and location. If a county has not made the required mileage certification, the Secretary of Transportation shall estimate the mileage maintained by that county or counties for the purpose of making distribution to all counties. The amount calculated to be distributed each month to any county or counties not certifying mileages shall be reduced by one-third each month for that fiscal year, and that amount not distributed to any county or counties failing to certify shall be distributed equally to all counties which have certified mileages (§67-3-28.3 NMSA).

### **11.8 County Road Superintendent**

The BOCC may employ a County Road Superintendent to be in charge of construction and maintenance of county roads and bridges (§67-4-3 NMSA). Depending upon the merit system in place, the position may be an at-will appointment by the BOCC, as is the County Manager, or may be a department director position comparable to the other department directors in the County. In counties that adopt the Road Superintendent's plan, expenditures from the road fund may be made only on itemized bills or estimates rendered and approved by the County Road Superintendent, subject to the requirements of the Procurement Code (§67-4-6 NMSA).

### **11.9 State Transportation Commission Plan**

The BOCC, if it desires, may contract with the State Transportation Commission to perform county road work. In that event, construction and maintenance of county roads and bridges, and the corresponding bids and purchasing of equipment, materials and supplies, are done under the direction and control of the State Transportation Commission, and paid for by the County.

Furthermore, if a county has inadequate equipment to perform needed road maintenance or construction, and if the State has road equipment in the vicinity, and upon request of the BOCC, the State Transportation Commission may furnish equipment, machinery and operators needed to grade and maintain county roads (§67-4-4 NMSA).

In counties that adopt the State Transportation Commission plan, expenditures from the road fund will be made only on bills or estimates approved by the State Transportation Engineer, or their assistant, by warrants drawn by the BOCC (§67-4-7 NMSA). While this plan is available to counties in New Mexico, the NMDOT discourages its use.

### **11.10 District Road Supervisor Plan**

The BOCC may divide the County into road districts composed of two or more adjoining school districts, and then appoint a District Road Supervisor. The District Road Supervisor directs and controls the construction and maintenance of county roads and bridges in his or her district. Subject to the approval of the BOCC, the District Road Supervisor may purchase road equipment, materials and supplies (§67-4-5 NMSA). In counties that adopt this plan, expenditures from the road fund may be made only on itemized bills or estimates rendered and approved by the District Road Supervisor. Final approval from the BOCC is required for the road work and supplies or materials that are purchased and received, and such purchases are subject to the provisions of the Procurement Code (§67-4-8 NMSA).

### **11.11 Performance Bonds**

A performance bond is held to ensure that, in the event a contractor cannot, or does not, complete the work in accordance with bid specifications and/or the contract, there are insurance monies available to allow the County to complete the work without the contractor. When the County

enters into an agreement with a contractor for any public work (roads and bridges included) that exceeds \$25,000, the contractor must furnish a performance bond. For contracts less than \$25,000, the performance bond requirement may be waived (§13-4-18 NMSA); each project poses a unique set of risks and therefore each decision to waive should be based on the facts relating to each project. The requirement for a performance bond and the amount of the bond should be contained in the bid packet to put bidders on notice.

### **11.12 Construction Contracts**

The awarding and execution of contracts for construction of county roads, bridges, or other public works in the County, can only be made under authority of the BOCC (§13-1-100 NMSA) and subject to the requirements of the Procurement Code and public works contracts laws. The BOCC may also enter into cooperative agreements with the U. S. Secretary of Agriculture for the survey, construction and maintenance of roads and trails upon federal property (§67-4-17 NMSA).

### **11.13 Discontinuance of a Road**

If any road or part of a road is not needed, or the cost of repairs is excessive, the BOCC may appoint, at a regular meeting, three freeholders from the County to serve as viewers of the road. The viewers will report to the BOCC at its next regular meeting whether the road is any longer needed, or whether the burdens of continued maintenance outweigh the benefits. If a discontinuance of the road is recommended, the BOCC may order it vacated. If the road being vacated runs between two counties, the BOCCs of both counties must agree before it can be vacated (§67-5-4 NMSA).

If a county wishes to abandon or vacate property or property rights acquired by purchase or condemnation for public roads, the BOCC may simply file a formal and written declaration of abandonment or vacation (§67-2-6 NMSA). The County has the right to abandon the property regardless of its previous intent to construct a road, or the intent of the Legislature to assist with formation of a road.

### **11.14 Creation of New Roads and Alteration of Old Roads**

The BOCC may establish township and section lines as roads (§67-5-1 NMSA) and may establish the same as rights-of-way for gas lines or drainage ditches (§67-5-6 NMSA). Fair compensation must be paid when a township or section line is taken from private property for a public right-of-way (§67-5-1 NMSA).

If a proposed highway lies on the boundary between two counties, a petition made to the BOCC of each county will cause each board to appoint three viewers. The viewers will meet at a time and place named by the BOCC. They will first mark out the road. Next they will report to the BOCC in their respective counties. The boards must then concur to establish the new road. If the

new road is to be established, each county must open and maintain its portion of the road. If the BOCC cannot agree upon the apportionment, then the matter is referred to three freeholders whose duty it is to apportion the road (§67-5-8 NMSA).

The BOCC, when petitioned by at least ten freeholders residing within two miles of a road sought to be altered, widened, changed or laid out, can order the establishment of a new road or the alteration of an existing one. The petition must set forth a description of the road to be altered and in case of a new road, must identify the point of termination (§67-5-5 NMSA). If the BOCC receives a request under this statute, the statute requires it to appoint three freeholders to view and mark out the road. The BOCC must set the time for viewing and publicize this fact at least five days prior to the viewing (§67-5-9 NMSA). The County Clerk issues a warrant ordering the viewers to look at and mark out the road, assesses the damages and benefits accruing to the owner of any lands over which the proposed road will pass, and assesses the cost of opening the road (§67-5-10 NMSA). The BOCC, at its regular meeting, considers the viewers' report and all objections, and determines whether the road is to be established and opened for travel.

If the BOCC decides to open a road, the viewers' report, the plat and the surveyor's report must be recorded in the office of the County Clerk (§67-5-16 NMSA). Following these steps, including the payment of compensation to damaged owners, the BOCC opens the road for travel. Notices must be posted at three public places along the line of the road. No road can be ordered opened through fields of growing crops or along a line where growing crops will be exposed to stock until the owner has sufficient time to harvest and take care of the crops (§67-5-17 NMSA).

It should be noted that the above described laws were first enacted in the early 1900's, and as a result of the tremendous population growth, scarcity of resources in New Mexico, demand for public services, and the U.S. Constitutional requirement to treat all persons equally under the law, it is difficult for counties to oblige equally all persons who might request that the County turn their private easement into a county maintained road. Therefore, a policy containing objective criteria by which the BOCC may consider and prioritize each such request is advisable.

Some factors the BOCC may wish to include in such a policy would be:

- the number of residents benefited by the proposed new road
- the amount of work, materials and money involved to bring the private easement up to county standards so as to not result in liability to the County for a negligently designed road
- the amount to maintain the new road going forward
- the existence of health or safety issues
- other pending necessary maintenance and repair requests to fix existing county roads
- the chronological order of receipt of the request for a new road compared to other similar requests for new roads

- and whether or not there are property ownership/access issues that might impede acquiring clear title to perform the work, should the request be granted.

### **11.15 Rights-of-Way**

Unless the BOCC decides otherwise, all public rights-of-way must be 60 feet in width (§67-5-2 NMSA). Necessary rights-of-way may be acquired by donation, through negotiation with property owners, or by eminent domain and condemnation (§67-4-12 NMSA). Counties may also acquire rights-of-way or permission for rights-of-way through state and federal lands. The Forest Service, Bureau of Land Management, and State Land Office control most public land and have differing regulations concerning rights-of-way acquisition by counties. Each agency should be contacted and involved early in the road planning process.

Finally, the New Mexico Subdivision Act authorizes the BOCC to require developers in any subdivided area to provide rights-of-way with widths conforming to the County's subdivision ordinance. BOCC approval is required before any new subdivision may be developed and before any new subdivision road is constructed or accepted for maintenance (§47-6-5 NMSA).

### **11.16 Road Maintenance in Subdivisions**

The BOCC may, by resolution, require streets within existing subdivisions to be maintained by the persons owning property adjacent to the streets requiring maintenance (§67-4-20 NMSA). The County is not statutorily required to accept roads within a subdivision for maintenance. Upon full conformance with the county road construction standards, the roads within a subdivision may be accepted for maintenance by the County (§47-6-5 NMSA). If, however, the County accepts a road or the roads within a subdivision for maintenance and the subdivision plat is filed with the County Clerk, then road maintenance becomes the responsibility of the County (§47-6-5 NMSA).

### **11.17 Airports**

The BOCC may establish airports (§4-38-31 NMSA). The BOCC, through purchase, condemnation, gift or lease, may acquire land for use as an airport, or the land may be acquired under the power of eminent domain (§4-38-32 NMSA). Furthermore, the BOCC may establish, construct, own, lease, control, equip, improve, maintain and operate the airport. Finally, the BOCC can lease or grant this use to others (§4-38-31 NMSA).

The BOCC can join with any municipality in the County in a joint operation of publicly owned or operated airports (§4-38-34 NMSA). The joint powers agreement also permits such cooperation between that county and municipality (§11-1-3 NMSA).

The BOCC may also seek financial aid from the federal government for the operation of an airport. Donations given to aid the airports may also be accepted (§4-38-35 NMSA). Revenue

bonds (§4-62-1 NMSA) and general obligation bonds (§4-49-6 NMSA) may be issued by the BOCC for the purpose of constructing and developing an airport subject to the requirements of the respective statutes.

**11.18 Certified County Road Mileage**

The mileage shown below is excerpted from a letter sent to State Treasurer Lewis by the NM Department of Transportation dated June 20, 2012.

*NMSA 1987, Section 66-6-23, as amended by the 1999 Legislature, requires all counties to certify and submit their maintained miles by April 1 of each year. All counties have complied and submitted the required documents by April 1, 2012. The New Mexico Department of Transportation has verified the submittals. Following is the list of miles certified and on file for 2012.*

| <u>County</u> | <u>Mileage Certified</u> | <u>County</u> | <u>Mileage Certified</u> |
|---------------|--------------------------|---------------|--------------------------|
| Bernalillo    | 727,602                  | McKinley      | 589,241                  |
| Catron        | 958,830                  | Mora          | 312,100                  |
| Chaves        | 1,418,950                | Otero         | 1,626,900                |
| Cibola        | 526,859                  | Quay          | 1,161,390                |
| Colfax        | 570,600                  | Rio Arriba    | 806,420                  |
| Curry         | 1,349,880                | Roosevelt     | 1,271,810                |
| DeBaca        | 851,730                  | Sandoval      | 1,516,150                |
| Doña Ana      | 1,293,490                | San Juan      | 755,400                  |
| Eddy          | 1,252,230                | San Miguel    | 512,740                  |
| Grant         | 691,230                  | Santa Fe      | 574,330                  |
| Guadalupe     | 709,350                  | Sierra        | 548,690                  |
| Harding       | 599,321                  | Socorro       | 1,287,930                |
| Hidalgo       | 529,700                  | Taos          | 339,160                  |
| Lea           | 1,225,400                | Torrance      | 936,995                  |
| Lincoln       | 799,387                  | Union         | 1,195,960                |
| Los Alamos    | 109,930                  | Valencia      | 496,807                  |
| Luna          | 1,886,440                |               |                          |

## Notes

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**CHAPTER 12**  
**COUNTY SERVICES & FUNCTIONS:**  
**PUBLIC WORKS AND OTHER CONCERNS**

Revised 2012 by County Manager Jan Porter-Carrejo and County Attorney Dave Pato, Esq.

Every county government, through its Board of County Commissioners (BOCC), receives requests to meet a variety of needs and to provide a number of services to its citizens. Some that may have not been addressed in earlier chapters are discussed below.

**12.1 Playgrounds and Recreational Equipment**

Counties may equip, maintain, operate and supervise playground and recreational facilities, as well as acquire land and buildings for recreational purposes (Section 5-4-1 New Mexico Statutes Annotated). The County may establish joint recreational systems with cities, other counties, or school boards (§5-4-5 NMSA). Lands and/or buildings, either owned or leased by the County, may be used for recreation. BOCCs are empowered to obtain lands or buildings and to make appropriations from the County General Fund for this purpose (§5-4-2 NMSA). Counties are also empowered to own, acquire, maintain, operate and sell county fairs and fairgrounds (§16-6-31 NMSA).

By resolution or ordinance, the BOCC can grant the power to provide playgrounds, recreation centers, zoos and other recreational facilities to a school board, park board or a playground and recreation board (§5-4-3 NMSA). Grants or donations made to the County for recreational purposes must be approved by the BOCC (§5-4-6 NMSA), and shall be deposited into the County Treasury under an account for said recreational facility and expended in the same manner as other county funds (§5-4-7 NMSA). Revenue bonds may be issued to acquire, construct, repair, extend, or improve recreational facilities (§5-4-10 NMSA).

**12.2 Licensing**

The general authority to provide, by ordinance, for the health, safety, welfare, prosperity and morals of the community grants the BOCC a broad range of options to set policies affecting and regulating special events and businesses within the County and outside the limits of any incorporated municipality (§4-37-1 NMSA).

Through separate and specific statutory authority granted by the Legislature, counties may impose liquor license taxes upon those persons holding state liquor licenses outside of municipalities. The maximum annual fee is \$250, and it must be imposed on an annual basis by the BOCC before June 1. The payment may be allowed to be made in two installments (§7-24-2 NMSA).

Counties may also impose business license fees upon those persons conducting business outside of municipalities, which may not exceed \$35 (§3-38-3 NMSA). Additionally, counties may

impose a business registration fee, which fee must be set by the BOCC, and the fee shall be reasonably related to the regulation of the business (§3-38-1 NMSA).

### **12.3 Artesian Conservancy Districts**

All artesian waters declared to be public waters are under the supervision and control of the State Engineer (§72-13-2 NMSA). However, in an area where an Artesian Conservancy District has not been organized, the BOCC may employ, with the approval of the State Engineer, an Artesian Well Supervisor. The salaries of the Artesian Well Supervisor and any assistants are fixed by the BOCC and a special tax can be levied to pay these salaries (§72-13-3 NMSA).

### **12.4 Libraries**

A county may issue general obligation bonds for the purpose of constructing a library and/or purchasing books or other library resources (§4-49-6 NMSA). In addition, the BOCC may authorize issuance of revenue bonds for constructing, equipping or improving libraries (§4-62-1 NMSA). A county may contract with other counties to form a regional library or to allow mutual use of library services upon approval of the State Librarian (§4-36-2 NMSA).

### **12.5 Detention Facilities**

Detention administration in New Mexico has undergone significant change in the last decade. The law provides that county detention centers may be operated and maintained by the County Sheriff, an independent contractor hired by the BOCC, or by a professional Detention Administrator employed by the County (§33-3-1A NMSA). The BOCC is responsible for determining who administers the detention center and for the appropriation of funds to operate the center (§4-44-19 NMSA). The Detention Administrator submits proposed rules and regulations to the BOCC for approval (§33-3-8 NMSA). Counties may enter into agreements with other counties, municipalities, or independent contractors for the creation and operation of regional detention centers (§33-3-2 NMSA).

Administrators and detention employees retain the power of peace officers on the detention center premises and when transporting inmates, regardless of who administers the center (§33-3-28 NMSA). The Local Government Corrections Fund may be used for operations, administrator training, construction and maintenance of county detention centers (§33-3-25 NMSA). See subsequent entries on the Fund, in this chapter.

In 2011, the Legislature changed the jail inspection requirements. The BOCC is now required to conduct an annual inspection of its detention center (§33-3-4 NMSA). This inspection is to consist of a careful examination of the overall conditions at the facility.

Because detention centers are necessary public buildings (§4-49-6 NMSA), the BOCC may issue general obligation bonds for the purpose of building, remodeling and adding to detention centers (§4-49-1 through 4-49-21 NMSA). Revenue bonds may be utilized for the same purposes (§4-62-2 NMSA).

The Gross Receipts Tax Law (§7-20F-3 NMSA) allows the BOCC to impose by ordinance a county correctional facility gross receipts tax in an amount up to one-eighth percent (in one sixteenth percent increments) of the gross receipts of persons engaging in business in the County, including all municipalities within the County. An ordinance imposing a county correctional facility gross receipts tax pursuant to this section shall be subject to optional referendum selection by the governing body, as provided in Subsection A of Section 7-20E-3 NMSA. The tax must go into effect in either January or July.

The revenues generated by such a tax may be used for the purpose of operating, maintaining, constructing, purchasing, furnishing, equipping, rehabilitating, expanding or improving a judicial-correctional or a county correctional facility, or the grounds of a judicial-correctional or county correctional facility, including acquiring and improving parking lots, landscaping or any combination of the foregoing; for the purpose of transporting or extraditing prisoners; or to pay principal and interest on revenue bonds or refunding bonds issued pursuant to the provisions of the County Correctional Facility Gross Receipts Tax Act.

#### **12.6 Local Government Corrections Fund**

The Local Government Corrections Fund helps counties finance detention center operations (§33-3-25 NMSA). These funds are appropriated to the Administrative Office of the Courts for quarterly distribution to counties for the construction and operation of detention facilities.

#### **12.7 Fire Districts**

Counties may establish, by ordinance, those regulations necessary for fire prevention (§3-17-6 and 3-18-11 NMSA). Independent fire districts may be established. Fire District Revenue Bonds may be issued upon two-thirds vote of the Commissioners, after designation of the source of pledged revenue (§5-7-6 NMSA). An independent fire district is entitled to share in the distribution of monies from the Fire Protection Fund. The amount is determined by the insurance rating and the number of fire stations. The Fire District may spend money from this fund for the maintenance of the department, for the purchase and maintenance of equipment, or for sending firefighters to fire training school (§59-15-9 NMSA). The BOCC, upon approval by the voters, may levy a one-eighth or one-quarter of one percent gross receipts tax to support the operation of fire districts. A Volunteer Firefighter's Retirement Program has been established to provide retirement benefits to long time voluntary firefighters (§10-11A-1 NMSA).

One county's fire district, with the approval of the BOCC, may service another district in an adjacent county pursuant to a mutual aid agreement.

#### **12.8 Television Translator Stations**

Any county is authorized to use its General Fund to acquire, build, improve, or maintain TV translator stations (§5-2-1 NMSA). These funds, however, may not be used for translator stations licensed or maintained by a commercial TV station (§5-2-2 NMSA).

### **12.9 County Special District Commissions**

State law provides for the occasional use of a Special District Commission in each county that will review proposals to create, dissolve, or merge special districts within the County for the purpose of constructing and furnishing any urban-oriented service which another political subdivision is authorized to perform (§4-53-4 NMSA).

### **12.10 Cooperative Extension Service**

The Cooperative Extension Service (CES) has existed in New Mexico since 1915, when funds were appropriated to provide a partnership among the counties of New Mexico, the Land Grant University (New Mexico State University), and the United States Department of Agriculture.

This historical agreement was constituted through the Congressional Smith-Lever Act of 1914 and Public Law 83 in 1953. The purpose of the partnership is to transmit practical information produced by university research centers to the public. The goal is to help people identify and solve problems for a better quality of life.

Funding for Cooperative Extension Service comes from county, state and federal sources. In each county, the BOCC may appropriate funds for the purpose of maintaining cooperative extension work (§76-2-4 NMSA). Programs are developed at the local level to meet the needs of county residents. A core staff of specialists is also available at the state extension office to support county needs.

### **12.11 Foreign Trade Zone**

The BOCC, with prior written approval of the New Mexico Economic Development Department, can apply for and accept a federal grant of authority to establish, operate and maintain a Foreign Trade Zone (§4-36-7 NMSA). The County may provide facilities and services, and exercise other powers to establish the Foreign Trade Zone as provided by the federal Foreign Trade Zones Act.

### **12.12 DWI Grant Programs**

A county is eligible to receive a DWI program distribution if the County submits to the DWI Grant Council a request to use the distribution for the operation of a DWI program, services or activities in the County by April 1 of each year (§11-6A-6 NMSA). The State DWI Grant Council approves the counties' funding requests by July 1 and distributes the funds quarterly on or before September 10, December 10, March 10 and June 10.

**CHAPTER 13**  
**COUNTY SERVICES & FUNCTIONS:**  
**HEALTH, WELFARE, AND PUBLIC SAFETY**

Revised 2012 by County Attorney Douglas Decker, Esq.

County government is responsible for many aspects of the health and welfare of its residents. The powers and responsibility are set forth in the *General Welfare Clause of the Counties; Powers and Ordinances* section of the State Statutes.

“All counties are granted the same powers that are granted municipalities except for those powers that are inconsistent with statutory or constitutional limitations placed on counties. **Included in this grant of powers to the counties are those powers necessary and proper to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of any county or its inhabitants.** The Board of County Commissioners may make and publish any ordinance to discharge these powers not inconsistent with statutory or constitutional limitations placed on counties.” (Section 4-37-1 New Mexico Statutes Annotated ).

Some of these duties are shared with the State, and some are statutorily assigned to local governments. County government is not required to actually provide the health/medical care services; rather, it serves as a conduit to other agencies, clinics and hospitals, through a variety of relationships and contracts, and to establish new and more efficient programs to reach more of the population. Some of the different areas in which local and state governments join together for various aspects of caring for the general welfare are described below.

**13.1 Ambulance Service**

A county may provide ambulance services in the absence of an established ambulance service, as authorized by the Public Regulation Commission (§5-1-1 NMSA). The Board Of County Commissioners (BOCC) may contract operation of the service out to other political subdivisions or private firms. The BOCC may also lease the ambulances and any other necessary equipment. Ambulance service may be furnished to points outside the County provided no local established ambulance service in the area is available, or if one exists, such service has inadequate capacity or is insufficient for the service requested. The County may use funds from the Indigent Care Funds Act to pay for ambulance service for indigent persons (§27-5-2 NMSA).

**13.2 County Supported Medicaid Fund**

This is a statutory obligation in which counties in New Mexico provide funding to the State to draw down federal matching dollars for the Medicaid Program (§27-10-3 NMSA). The mandated amount on each county is equal to the revenue generated by a one-sixteenth of one percent gross receipts tax (§27-10-4(A) NMSA).

The funds necessary to cover the county-supported Medicaid payment can come from any legitimate revenue source of the County. The Legislature has allowed counties to impose a 1/16<sup>th</sup> percent gross receipts tax (County health care gross receipts tax) which, if imposed, must be dedicated to the county-supported Medicaid fund (§7-20E-18 NMSA). Counties can also use the 2<sup>nd</sup> 1/8<sup>th</sup> increment of County Gross Receipts Tax (commonly called the *Indigent Health Gross Receipts Tax*) for payment of the county-supported Medicaid payment (§7-20E-9 NMSA).

### **13.3 Sole Community Provider Program**

This is a federal/state payment program designed to support hospitals in New Mexico. The counties provide the state match; and the State draws down the federal funds, and pays the designated Sole Community Hospital directly from the Sole Community Provider Fund (§27-5-6.1 NMSA).

The BOCC that authorizes payment for services to a designated Sole Community Hospital must, among other things:

- determine eligibility for benefits
- determine amount payable on each claim
- negotiate agreements with each sole community provider hospital regarding intergovernmental transfers
- provide the State, by January 15 of each year, with the budgeted amount of sole community provider hospital matching payments, by hospital, for the coming fiscal year (§27-5-12.2 NMSA).

### **13.4 Other Care of Indigent Persons**

Every county is responsible for ambulance transportation and hospital care of indigent patients under the provisions of the Indigent Hospital and County Health Care Act (§27-5-2 NMSA). The BOCC is required to provide a means for the care of indigent patients and for reimbursement to the institution caring for them (§27-5-2 NMSA). Hospitals eligible for these funds historically were nonprofit, but also include for-profit and state-owned hospitals, nursing homes, and out-of-state hospitals, when treatment is not available in-state.

In each county, the County Health Care Board is composed of the members of the BOCC, with the County Chairperson serving as the chair of this board (§27-5-5 NMSA). The County Health Care Board is authorized to create a preferred claim against the state of an indigent patient, or a lien against any real property owned or later acquired by a person receiving benefits, in order to recover the costs for medical care and ambulance service received. A fourteen-year limitation of actions applies to such claims (§27-5-14 NMSA).

To be eligible for indigent claims, a person must physically reside in that county for at least three months prior to the date of hospitalization. The person must also meet income requirements that are established by each county through an ordinance (§27-5-4(M) NMSA). Many counties also use the ordinance to establish a process whereby health care costs for

prisoners in the county jail may be paid for with indigent health funds (§33-3-5 NMSA and 1953-54 Opinion Attorney General No. 5928).

### **13.5 Duty to Indigent and Unclaimed Decedents**

The duty to provide care to the indigent includes a duty to bury or cremate unclaimed decedents as defined (§24-13-1, 2 NMSA). All available assets of any the decedent's state, discovered to exist, shall be used to reimburse the County for the burial or cremation (§24-13-5 NMSA). The BOCC shall be liable to their county, either personally or officially, in an amount double the amount authorized for a burial or cremation in violation of the statute.

Funeral directors shall immediately notify the BOCC regarding any receipt of payment or any agreement to make payment by relatives or friends of a deceased person who has been determined to be indigent, and the BOCC shall not thereafter pay for the burial or cremation. The funeral director shall reimburse the County if it has already paid for the burial (§24-13-6 NMSA). A failure on the part of the funeral director to notify the BOCC that payment has been received from relatives or friends shall result in the funeral director's liability to the County in an amount double the amount paid or to be paid by the BOCC (§24-13-7 NMSA).

### **13.6 Public Welfare and Assistance**

Public welfare and assistance is under the exclusive control of the State, which administers all state welfare activities as provided by the Public Assistance Act (§27-1 through 27-15 NMSA). The State's Human Services Department is responsible for administering this Act.

### **13.7 New Mexico State Fair**

To aid the County in displaying its products at the State Fair in Albuquerque, the BOCC may appropriate up to \$1,000 annually from the County General Fund (§4-38-14 NMSA). This appropriation may be used to pay a qualified person, appointed by the BOCC, to manage the county exhibits (§4-38-15 NMSA).

### **13.8 Health Districts (County Health Offices)**

The Secretary of the New Mexico Department of Health (DOH) establishes health districts and appoints District Health Officers and establishes their powers and duties (§24-1-4 NMSA). The BOCC, with the approval of the DOH Secretary, may employ additional assistants to the District Health Officer to be paid by the County (§24-4-3 NMSA). The individuals hired by the County to assist the District Health Officer are subject to the State's Personnel Act and not the County's merit system or other personnel procedures.

The BOCC shall provide suitable quarters for the County Health Department and the District Health Officer, including office space for all involved, clinic space for patients and waiting area for patients, families and friends (§24-4-2 NMSA).

### **13.9 Hospitals**

Each county has the power to create a Special Hospital District and construct, purchase, own, maintain and operate county hospitals. A county can levy and collect taxes to maintain and operate hospitals; can contract with other counties, municipalities, public or private corporations or the federal government to care for the sick; or join with a municipality to operate a city-county hospital (§4-48B-5 NMSA).

The County can also lease hospital facilities or contract for the management or operation of the hospital or other health care facilities. These leases can be for longer periods of time, exceeding one year, as long as statutory conditions are met (§4-48B-5(J) NMSA). If the County leases to a private entity, the sunshine laws and the Procurement Code generally do not apply to the private organization. If the County retains majority control, the sunshine laws and Procurement Code will still apply. Any public funds directly granted to the hospital without requiring performance of a service for such funds, (i.e. mil levy funds), must comply with the Procurement Code and the sunshine laws.

### **13.10 Hospital Funding**

Because of the recently enacted federal Health Care Reform Act and its four year period of implementation, it is not possible, nor is it intended that this chapter or manual will provide the reader with a complete understanding as to all the hospital funding options available to counties, nor all the requirements counties may be subject to, relating to hospitals, health care, methods of meeting the obligation to provide medical care to the indigent population, etc.

A brief description of some of the current funding mechanisms is provided:

- Under the Hospital Funding Act, BOCC are authorized to impose a mill levy and collect annual assessments against the net taxable value of the property in a county, to pay the cost of operating and maintaining county hospitals, or to pay to a contracting hospital.
  - Counties may levy up to 4 1/4-mils of property tax.
  - *Class A* counties are authorized to levy up to 6 ½ mils.

A single mil of property tax is calculated as one dollar (\$1.00) for every one thousand dollars (\$1,000.00) of assessed property value.

- The Indigent Hospital and County Health Care Act (§27-5-1 *et. seq.* NMSA) recognizes and states that the counties of this state are responsible for the provision of health care to qualifying indigent patients who are residents of the County. The BOCC can create an ordinance to discharge this responsibility and set forth the local qualifications. In addition, the County can provide local revenues to match federal funds for the state Medicaid program (as discussed above this chapter), and matching funds for the sole community provider program (as discussed above this chapter). As a source of

revenue to carry out this responsibility, the Act allows BOCCs to impose, by ordinance and/or referendum as provided by the statute, a **gross receipts tax** (§7-20E-9(C) and (D) NMSA) or a property tax mil levy (§27-5-9 NMSA). The Act also creates a County Indigent Hospital and Health Care Fund so the revenues generated by the various taxes can be managed (§27-5-7 NMSA).

- The Local County Hospital Gross Receipts Tax Act (§7-20C-1 *et. seq.* NMSA) authorizes certain *Class B* counties to enact a **gross receipts tax** for designing, constructing and equipping hospitals.
- The Special County Gross Hospital Receipts Tax Act (§7-20E-13 NMSA) is similar and also authorizes certain *Class B* counties to impose a gross receipts tax for hospital operations and maintenance.
- Both gross receipts taxes must be approved by referendum.

### **13.11 City-County Hospitals**

A county and a municipality may enter into an agreement to construct, maintain and operate a county-municipal hospital (§4-48B-5 and 4-48B-9 NMSA), jointly governed through an appointed board of trustees. A joint powers agreement may be used to establish the county-municipal hospital. The board of trustees must submit an annual report, including management and financial sections, to the BOCC and to the municipality. A county may also establish a hospital in conjunction with other neighboring counties. Any hospital created as a jointly governed hospital is subject to all of the sunshine laws and the Procurement Code.

### **13.12 County Hospitals**

The BOCC of a county maintaining or operating a county hospital is authorized to appoint a hospital governing board to be composed of either five, seven or nine members. The hospital governing board so appointed shall have the authority to exercise all powers that the County is granted by the Hospital Funding Act, for the operation of such hospitals, except the powers to issue bonds, call a mill levy election, levy the annual assessments for the mill levy authorized by the Hospital Funding Act and to dispose of real property of the hospital acquired with the proceeds of any bond issue. The hospital governing board shall account annually for the receipt and expenditures of funds received for the operation of the hospital.

Members of the hospital governing board shall be appointed by the BOCC for staggered terms of three years or less. Appointments shall be made in such a manner that the terms of not more than one-third of the members, or as near thereto as possible, expire on June 30 of each year. Vacancies shall be filled for the unexpired term by appointment by the BOCC.

The BOCC, by an agreement for the maintenance and operation of a county hospital with another county or counties, another political subdivision, person, association or corporation, may permit the selection of a hospital governing board by the other party to the agreement, subject to approval by the BOCC. Any hospital formed in this manner is subject to all the sunshine laws and the Procurement Code.

### **13.13 Refuse Collection & Landfills**

Counties are authorized to create Refuse Districts (§4-52-1 *et. seq.* NMSA) or manage systems for the collection, disposal and storage of refuse (§4-56-1 *et. seq.* NMSA). If the BOCC establishes landfills and regulates the disposal of refuse, it may assess and collect fees from persons using the facilities, and if the BOCC establishes Refuse Disposal Districts, it can delegate power to the Districts to assess and collect fees from any person who uses an established system of collection and disposal of refuse. The use of a Joint Powers Agreement is also a valid way to combine other local governmental entities for the operation of landfills and solid waste collection systems and obtain the economies of scale.

The Solid Waste Act of 1990 requires counties (or any other entity that operates landfills) to meet the heightened environmental standards of the Act. One major standard is that all solid waste systems must apply for and obtain a permit from the Environment Department. There are numerous standards that make up a permit. So as not to violate the unfunded mandate clause of the NM Constitution, and to aid in the creation of permitted landfill facilities, there is a grants program established through the Environment Department to aid counties to meet the regulations (§74-9-40 NMSA). Also, counties have the ability to impose a local one-eighth of one percent environmental gross receipts tax (§7-20E-17 NMSA).

There are also numerous federal regulations governing the establishment and operation of landfills requiring adherence by county government.

A county can also make a contract for the provision of these services or any part of these types of services to a private entity.

In order to combat illegal dumping in rural areas of the many counties, which is a real health issue, some counties have mandated residential curbside trash pick-up through adoption of an ordinance, and then contracted the hauling to private haulers. Other counties have mandated residential curbside trash pick-up, but left it up to the residents to choose between using a private hauler or paying a user fee at the convenience transfer stations. All county solid waste ordinances prohibit the illegal dumping of solid waste, and impose penalties for violations. The penalty for discarding or disposing of refuse, litter or garbage anywhere other than in an authorized waste facility may be set at any amount up to \$1,000; the fine for improper or illegal disposal of hazardous waste may be as much as \$5,000 (§4-

37-3(A)(1) and (2) NMSA). This fine is specified in the enabling legislation for illegal dumping. All other ordinance violations are limited to \$300.00 or 90 days in jail or both (§4-37-3(A) NMSA).

### **13.14 Animal Control**

At the bare minimum, each county is required to make provisions by ordinance to control, seize and dispose of dogs, cats and other animals running at large, which are not claimed by any person or kept on their premises (§77-1-12 NMSA). Animals that are suspected of being rabid are to be impounded and tested.

Full or part-time animal control officers are to be deputized in order to enforce animal control laws and ordinances (§77-1-15.1 NMSA). The County may choose to provide more protection to the health and safety of the citizens regarding animal control by review, and implementation of the full statutory scheme is set forth in Chapter 77 of the State Statutes.

- Dogs and Domesticated Animals (§77-1-1 *et. seq.* NMSA)
- Dangerous Dogs (§77-1A-1 *et. seq.* NMSA)
- Animal Sheltering (§77-1-1B *et. seq.* NMSA)

### **13.15 Environmental Controls**

The Environmental Improvement Act (§74-1-1 through 74-1-10 NMSA) created the New Mexico Environment Department (NMED), which is responsible for environmental management and consumer protection. The NMED representative in each of New Mexico's 33 counties works with the BOCC in each. The NMED representative may assist the BOCC with such matters as food protection, inspecting health conditions at county fairs, checking on septic tanks and illegal dumping of litter and hazardous wastes.

### **13.16 Air Pollution Controls**

The New Mexico State Environmental Improvement Board (EIB) is the state air pollution control agency for compliance with federal air pollution legislation. The EIB may take all action necessary to secure to the State and its political subdivisions the benefits of such federal acts. A *Class A* county may establish a joint governing board with one or more municipalities within the County. When such boards are established, they are responsible for the administration and enforcement of the provisions of the Air Quality Control Act (§74-2-4 NMSA). The County Pollution Control Revenue Bond Act (§4-60-1 NMSA) authorizes counties to issue revenue bonds for the acquisition, ownership or lease of projects which abate or reduce air, land, or water pollution.

### **13.17 Flood Plains**

Partially as a result of federal regulations and policies in relation to flood plains, the New Mexico legislature has granted counties the authority to manage flood plain issues. Every

county may enact ordinances to designate and regulate flood plain areas and flood ways, to set standards for buildings in flood or mudslide hazard areas, and to require new or replacement water or sanitary sewage systems in these areas (§3-18-7 NMSA). The ordinances must conform to established federal standards and guidelines.

Any county may enter into reciprocal agreements with other local, state or federal units of government in order to carry out requirements of such ordinances. A county can request the assistance of the New Mexico Environment Department and the Construction Industries Division of the General Services Department, regarding flooding issues. Ordinances creating flood plain management will also allow the citizens of the County to participate in obtaining national flood insurance.

On the recommendation of the Flood Commissioner, the BOCC generally may contract to borrow funds from state or federal agencies for constructing and maintaining dikes, dams, embankments, ditches and other structures to prevent flood damage. A property tax levy for the repayment of the borrowed funds for flood control purposes may be assessed, not to exceed \$1.50 per one thousand dollars of net taxable value of all property. The taxable property must be located within five miles of both sides of any river or stream which contributes to or is subject to flood conditions.

### **13.18 Civil Preparedness/Emergency Management**

The BOCC is responsible for the all hazard emergency management of the County. Consequently it is authorized to establish, by ordinance or resolution, a local Office of Emergency Management. This office is an agency of the County and is responsible to the BOCC.

Many emergency operations plans use the acronym *CEO*. The definition of CEO in the emergency management area is Chief Elected Office or Chief Elected Official. For counties, this means the BOCC, not the County Manager or the Emergency Manager, is considered CEO for this purpose.

The local Coordinator of Emergency Management shall be appointed under the County's merit system or other personnel procedures of the BOCC, subject to the approval of the state Director of Homeland Security and Emergency Management. The local Coordinator shall have direct responsibility for carrying out the all hazard emergency management programs of the County. Each county shall perform emergency management functions within its territorial limits (§12-10-5 NMSA). The BOCC has the power to make appropriations for the payment of emergency management expenses (§12-10-7 NMSA).

### **13.19 Detention: Juvenile and Adult**

The BOCC is empowered to establish and equip juvenile detention centers and to house juveniles requiring detention (§33-6-1 *et. seq.* NMSA). Counties can also enter into a JPA with one or more counties in the same judicial district to build a detention center. Contracts for housing juvenile detainees may also be an acceptable form of fulfilling this duty (§33-6-4 NMSA).

Counties are required to make provision for jails and the housing of pre-adjudicated inmates and convicted misdemeanor offenders (§33-3-1 *et. seq.* NMSA).

Jail operation is at the discretion of the BOCC and each county can choose to have the jail be operated:

- by the Sheriff
- by a Jail Administrator, hired as a department of the County
- by contract to another local public body or combination thereof
- by contract to independent contractors / private companies (§33-3-1, 14, 15, 18 NMSA).

The operation of a detention center (adult or juvenile) requires consideration of the constitutional and statutory obligations of the counties and the rights of the inmates.

Some practices to consider employing at a detention center include but are not limited to:

- inspections of jails and detention centers and reports on the same (§33-3-4 NMSA)
- cleanliness of and feeding of prisoners (§33-3-5 and 6 NMSA)
- rules and procedures for prisoners (§33-3-8, 9 NMSA).

To build jails, the BOCC can use revenue bonds or general obligation bonds as approved by the voters to build any public building (§4-62-1, §4-49-4, §7-20E-21 NMSA) . In addition, each county may impose the County Correctional Facility Gross Receipts tax in one-sixteenth percent increments up to a total of one-eighth percent (§7-20F-1 *et. seq.* NMSA).

Because of the amendments to this statute in 2004, this tax may now be dedicated to:

- operating, maintaining, constructing, purchasing, furnishing, equipping, rehabilitating, expanding or improving a correctional facility; for the purpose of transporting or extraditing prisoners; or,
- to pay for revenue bonds or refunding bonds issued to build a jail (§7-20F-3(C) (3) NMSA).

County Commissioners also must realize the protections and rights granted by the Constitution of the United States and the Constitution of the State of New Mexico, prohibiting cruel and unusual punishment and defining due process, equal protection, search and seizure, etc. There is a large body of case law imposing duties on the counties as jail operators that must be followed, or liability for damages can be awarded. When constitutional or civil rights are violated, the complaining party can be awarded damages, plus their attorney's fees.

### **13.20 Fire Protection and Emergency Medical Services:**

Under the power granted to counties to protect the general welfare of its citizens; fire protection and emergency medical services (EMS) are a function of the County. It is up to the BOCC to determine the extent of such services, and what type of organization performs the service to the citizens. For many counties, the use of volunteer fire fighters and volunteer EMS people is the best. For others and in areas of large population, a full time employee for fire and EMS is needed. Because the various sources of revenue for these services are limited to specific applications and uses, the decision on the use of volunteers or full time employees comes down to weighing the need and availability of General Fund moneys with which to pay salaries and wages.

There are various funding sources that limit the use to capital expenditures (i.e. buildings and apparatuses), equipment and material used for performance of these services (i.e. bandages, bunker gear, radios, etc.), and utility and training expenses. Employee wages, salaries and benefits are not available from the normal sources, and grants are usually self-reducing, requiring the County to continue to pay employment for several years out of the General Fund.

The County Fire Protection Excise Tax is a gross receipts tax that must be dedicated for the purpose of financing the operational expenses (this does not include wages, salaries and benefits), ambulance services, or capital outlay costs of fire districts or ambulance services (§7-20E-15 and 16 NMSA).

The *Countywide Emergency Communications and Emergency Medical and Behavioral Health Services Tax* is a gross receipts tax of up to one-fourth percent (in increments of one-sixteenth percent) that must be dedicated to one or more of the following purposes:

- operation of a qualified consolidated emergency communications center / public safety answering point
- operation of emergency medical services provided by the County
- provision of behavioral health services including alcohol abuse and substance abuse treatment (§7-20E-22 NMSA).

There are also State funds administered by the Department of Health, using the State Emergency Medical Services Fund (§24-10A-3 NMSA), and the State Fire Marshal, using the State Fire Protection Fund (§59A-53-7 NMSA).

## **CHAPTER 14**

### **COUNTY SERVICES & FUNCTIONS: PLANNING AND ZONING**

Revised 2012 by County Manager Jan Porter-Carrejo and County Attorney Dave Pato, Esq.

Counties have broad authority in the areas of planning and zoning. These functions are related to the Board of County Commissioners' (BOCC) appointive and regulative powers pertaining to Planning Commissions, Planning and Development Districts, County Zoning Authorities and Extraterritorial Zoning Commissions, and to those powers granted in the Subdivision Act.

#### **14.1 Planning Commission**

Any county may establish by ordinance a Planning Commission of not less than five appointed members. The Planning Commission has such powers as are necessary and proper to carry out and promote county planning (Section 4-57-1 New Mexico Statutes Annotated). Under certain conditions, two or more adjacent counties, or one or more counties and a municipality, may create a Regional Planning Commission (§3-56-2 NMSA).

#### **14.2 Planning and Development Districts**

The Planning District Act (§4-58-1 NMSA) established seven planning and development districts for the purpose of facilitating state grants-in-aid to the designated planning and development districts.

#### **14.3 Zoning Commission**

Counties have the same authority to regulate building and zoning as municipalities (§3-21-1 NMSA). The BOCC may act as the County Zoning Authority, designate the Planning Commission to serve as the Zoning Commission, or appoint a Zoning Commission (§3-21-7 NMSA). Counties may regulate the construction, reconstruction, alteration, repair or use of buildings and issue building permits (§3-18-7 NMSA). The BOCC may adopt ordinances for the zoning of any or all of the unincorporated area of the County not within the zoning jurisdiction of a municipality (§3-21-2 NMSA). All zoning, however, must be in conformance with a comprehensive land use plan (§3-21-5 NMSA).

#### **14.4 Extraterritorial Zoning Authority**

Extraterritorial zoning may be adopted by ordinance for the geographic area surrounding the boundaries of a municipality. The area which may be extraterritorially zoned varies from a distance of one mile from the boundary of municipalities with populations from 1,500 to 20,000 persons to a distance of three miles from the boundaries of municipalities greater than 200,000 persons. Limits may be extended by joint powers agreement between the city and BOCC, but must not encroach upon the zoning jurisdiction of another city (§3-21-2 NMSA). An Extraterritorial Zoning Authority Commission may be established to zone that portion of the extraterritorial zoning area lying within the County (§3-21-3 NMSA).

#### **14.5 Special Zoning District Act**

The Special Zoning District Act allows residents of an unincorporated and un-zoned portion of a county to establish local zoning where the County has not adopted a general zoning ordinance (§3-21-16 NMSA). In order to establish a Zoning District, there must be at least 150 single family dwellings within the area under consideration. A petition representing at least 51% of the registered voters in the area must be submitted to the County Clerk (§3-21-18 NMSA). The BOCC is required to hold an election so that voters from within the Special Zoning District may elect five members as a Zoning Commission (§3-21-20 NMSA).

#### **14.6 Historic Districts and Landmarks**

Counties may designate qualifying unincorporated areas as historic areas or landmarks. Zoning regulations may be imposed within those areas, which prohibit destruction or alteration of exterior features of historic buildings or other structures (§3-22-3 NMSA). Counties are also authorized to use public funds to lease, purchase, or otherwise protect historic sites (§3-22-4 NMSA).

#### **14.7 Subdivision Act**

The BOCC has significant responsibilities relating to subdivision regulation (§47-6-1 through 47-6-29 NMSA).

All counties must adopt regulations setting forth the County's requirements for:

- preliminary and final subdivision plats, including their content and format
- quantifying the maximum annual water requirements of subdivisions, including water for indoor and outdoor domestic uses
- assessing water availability to meet the maximum annual water requirements of subdivisions
- water conservation measures
- water of an acceptable quality for human consumption and for protecting the water supply from contamination
- liquid waste disposal
- solid waste disposal
- legal access to each parcel
- sufficient and adequate roads to each parcel, including ingress and egress for emergency vehicles
- utility easements to each parcel
- terrain management
- phased development
- protecting cultural properties, archaeological sites and unmarked burials, as required by the Cultural Properties Act

- specific information to be contained in a subdivider's disclosure statement in addition to that required in Section 47-6-17 NMSA
- reasonable fees approximating the cost to the County of determining compliance with the New Mexico Subdivision Act and county subdivision regulations while passing upon subdivision plats
- a summary procedure for reviewing certain type-three and all type-five subdivisions as provided in Section 47-6-11 NMSA
- recording all conveyances of parcels with the County Clerk
- financial security to assure the completion of all improvements that the subdivider proposes to build or to maintain
- fencing subdivided land, where appropriate, in conformity with Section 77-16-1 NMSA, which places the duty on the purchaser, lessee or other person acquiring an interest in the subdivided land, to fence out livestock
- any other matter relating to subdivisions that the BOCC feels is necessary to promote health, safety and the general welfare (§47-6-9 NMSA).

Land within a new subdivision cannot be sold until the subdivision plat is approved by the BOCC and all regulations have been met (§47-6-8 NMSA). Subdividers must disclose to potential land purchasers evidence of compliance with County Subdivision Regulations (§47-6-17 NMSA).

#### **14.8 Appeals**

A party adversely affected by an administrative decision of a delegate of the BOCC has the right to appeal to the BOCC within 30 days from the date of the decision. The BOCC shall hear the appeal and render a decision within 30 days of receiving notice of the appeal (§47-6-15 NMSA). An aggrieved party may appeal the decision of the BOCC to the District Court pursuant to the provisions of Section 39-3-1.1 NMSA.

#### **14.9 Water Development Planning**

Counties which provide water for use by water supply and distribution systems are authorized to prepare Water Development Plans which predict water needs for a period of forty years. Upon approval of the Plan by the State Engineer, the County can purchase, or otherwise acquire and retain, water rights to satisfy the projected demand (§72-1-9 NMSA).

#### **14.10 Manufacturing Housing and Zoning Act**

The Manufactured Housing and Zoning Act states that manufactured homes, that is, homes manufactured to codes equivalent to or the same as those for site-built homes, cannot be excluded by zoning from areas set aside for site-built homes (§3-21A-3 NMSA). Mobile homes, that is, homes built to lesser standards, may, however, be excluded by zoning from such residential use districts (§3-21A-4 NMSA).

## Notes

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## **CHAPTER 15**

### **COUNTY SERVICES & FUNCTIONS: ELECTIONS**

The election code applies to the following types of elections

- General Elections
- Primary Elections
- Statewide Special Elections
- Elections to fill vacancies in the office of Representative in Congress
- School District Elections (§1-1-19 NMSA)

The Secretary of State, the chief election officer of the State, maintains uniformity in the application, operation and interpretation of the New Mexico Election Code. The Secretary of State may, subject to the State Rules Act (§14-4-1 through 14-4-9 NMSA), make rules and regulations pursuant to the provisions of the Election Code. Copies of such rules and regulations are furnished to the County Clerk of each county (§1-2-1 NMSA). No election forms or procedures can be used without prior approval of the Secretary of State.

#### **15.1 Election Officers and Boards**

At least 55 days before the primary election, the County Clerk appoints the precinct board and alternates for each precinct (§1-2-6, §1-2-10 NMSA) for a term of two years. The Precinct Board shall consist of a presiding judge, one or more election judges representing each major party and one to three election clerks, depending on the need in that particular precinct (§1-2-2 NMSA).

#### **15.2 Precincts and Polling Places**

The polling place for each precinct is designated by the Board of County Commissioners (BOCC) before the first Monday in November of each odd-numbered year. If no public building or public school building is available, the BOCC must provide some other suitable place (§1-3-7 NMSA). However, no polling place can be selected outside the boundary of the precinct unless approved by the District Court of the county where the precinct is located.

Upon application of the BOCC, the governing board of any school district must permit the use of any school building for registration and voting purposes (§1-3-7 NMSA). The BOCC may create an alternative polling place within a precinct upon receiving a petition signed by at least ten percent of the qualified electors of that precinct (§1-3-7.1 NMSA).

The BOCC may create additional polling places or additional precincts and may divide or consolidate precincts as necessary to meet legal requirements (§1-3-2,3 NMSA). In 2009, the Election Code was changed to provide for the designation of an election precinct as a “mail

ballot election precinct” by the BOCC, upon the request of the County Clerk, if the BOCC finds that the precinct has fewer than 50 voters and the nearest polling place for an adjoining precinct is more than 30 miles driving distance from the polling place designated for the precinct in question.

The BOCC is permitted by law to consolidate up to 10 precincts into one polling place called a Voter Convenience Center (§1-3-4 D (2) NMSA). Those consolidated precincts are subject to the same rules that apply to precincts generally in terms of their creation, publication of the location and hours of operation, and all other requirements. Additionally, the BOCC may designate certain rural precincts as mail ballot only precincts (§1-6-22.1 NMSA).

### **15.3 Registration of Electors**

The BOCC must meet in February of each odd-numbered year to appoint three voters to the County Board of Registration. No more than two of the three persons may be members of the same party at the time of their appointment. The BOCC must also select two alternates who belong to different political parties at the time of their appointment. Appointments to the Board of Registration are made from the lists of county party chairpersons. The BOCC must give preference to the names in the order indicated on the lists (§1-4-34 NMSA).

The Board of Registration begins, in March of odd-numbered years, to review the voter registration lists, and to compile a list of inactive voters. The BOCC is obligated to provide the necessary clerical assistance needed by the County Clerk to perform all voter registration work, including that of the Board of Registration (§1-4-46 NMSA).

### **15.4 Automated Voter Records System**

The Automated Voter Records System Act (§1-5-1 through 29 NMSA) shall be implemented by order of the BOCC in all precincts of the County. The Act is mandatory and supplemental to the provisions of the Election Code (§1-5-3 NMSA). All voter registration records required by the election code are to be maintained in a county register by the County Clerk. The Secretary of State shall maintain registration lists of state voters based on county lists and all transactions involved (§1-5-3 NMSA).

### **15.5 Absentee/Early Voting**

Before any general, primary, or statewide special election, the BOCC must adopt a resolution creating precincts for absentee voting purposes. An absentee voter precinct is created for each state representative district in the County. The boundaries of that precinct must coincide with the boundaries of the state representative district, except in multi-county districts. In these districts, the precinct boundaries coincide with the boundaries of that portion of the district lying within the County.

Each precinct must be identified by county name and district number (§1-6-20 NMSA). At the time that absentee voter precincts are created or consolidated, the BOCC must designate a polling place in each absentee voter precinct (§1-6-22 NMSA). The BOCC must also permit

absentee voting for all bond elections (§6-15-26 NMSA). Any voter may vote absentee ballot in any election (§1-6-3 NMSA).

The County Clerk may create alternate voting locations within the County for early voting (§1-6-5.7 NMSA). Not less than ninety (90) days prior to the election the County Clerk must fix the hours of operation for alternate voting locations; however, they may not open earlier than 7:00 a.m. and may not close any later than 9:00 p.m.

Alternate voting locations must be open for a minimum of eight (8) consecutive hours during each day of early voting. In addition, the alternate voting locations must comply with seven (7) additional requirements that are set forth in the above referenced statute.

### **15.6 Use of Paper Ballots**

The 2006 Legislature amended the election law to require the use of paper ballots in elections covered by the Election Code. The law now provides that voting systems owned or used by a county that do not use a paper ballot, may be used until an adequate supply of voting systems is available and sufficient federal, state or local funds are available:

- To replace the voting system
- To acquire the necessary software
- For the Secretary of State to purchase the paper ballots for all counties to use on the new voting system for primary and general elections and
- To hold the counties harmless for payments due for voting systems under lease-purchase agreements entered into pursuant to Sections 1-9-17 through 1-9-19 NMSA.

### **15.7 Provisional Paper Ballots**

In 2003, the election code was amended to add methods to enhance voter accessibility to the polls. The use of the *provisional paper ballot* was authorized for certain situations. One such situation is when a voter requests to vote at a precinct outside their precinct of residence and the poll workers have no way to verify that the voter is indeed registered to vote within the County. The voter is to be allowed to vote using a paper provisional ballot, which will be verified later, maintaining the secrecy of the voter's identity (§1-12-25.2 NMSA). The 2005 amendment to this statute states that beginning with the closing of the polls on election-day through the tenth day following the election, the County Clerk shall notify by certified mail each person whose provisional ballot was not counted of the reason the ballot was not counted. The voter shall have until the Friday prior to the meeting of the State Canvassing Board to appeal to the County Clerk a decision to reject the voter's ballot.

Also, these provisional paper ballots are to be used if polling hours are extended by court order or any other order pursuant to a state law in effect at least ten days before the date of that election. The provisional paper ballot cast pursuant to this section shall be separated and held apart from provisional paper ballots cast by those not affected by the order. The ballot shall be

counted if there is no legal challenge to the order extending polling hours within ten days of the election; or a legal challenge to the order extending polling hours is not sustained (§1-12-27.1 NMSA). The voter must complete the outer envelope of the provisional paper ballot with certain minimum requirements as outlined in statute (§1-12-25.3 NMSA).

These include:

- the name and signature of the voter
- the voter's registered address, both present and former if applicable
- the voter's date of birth
- the reason for using the ballot
- the precinct and the polling place at which the voter has voted
- the voter's social security number and
- sufficient space to list the disposition of the ballot after review by the County Clerk.

A provisional paper ballot shall not be rejected for lack of the information required by this section as long as the voter provides a valid signature and sufficient information to determine eligibility.

If a voter is required to vote on a provisional paper ballot, the Election Judge shall give the voter written instructions on how the voter may determine whether the vote was counted and, if the vote was not counted, the reason it was not counted. Further, the County Clerk shall establish a free access system, such as a toll-free telephone number or internet web site that a voter who casts a provisional paper ballot may access to ascertain whether the voter's ballot was counted and, if the vote was not counted, the reason it was not counted. Access to information about an individual voter's provisional ballot is restricted to the voter who cast the ballot.

### **15.8 Voting Machines**

The Secretary of State (SOS) is required to provide the County Clerk with a sufficient number of voting systems, as required by the Election Code (§1-1-1 NMSA), for the conduct of primary and general elections. When authorized by the State Board of Finance (BOF), the BOCC may acquire new or previously owned systems.

The Secretary of State prescribes by rule, specifications for the proper storage of voting systems, which are held in the custody of the county that uses them. The BOCC is responsible for the cost of properly storing the voting systems. The SOS must pay from the voting system revolving fund for the cost of all hardware, software, firmware, maintenance, and support for voting systems, whether state- or county-owned, certified for use in state elections (§1-9-7.6 NMSA).

State law governing the minimum number of voting machines requires one voting machine in each polling location (§1-9-5 NMSA) and an adequate number of booths to ensure voting in secret.

### **15.9 County Canvassing Board**

The BOCC is *ex officio* the County Canvassing Board (§1-13-1 NMSA). The Board must meet within three days after the election to proceed to canvass the election returns (§1-13-3 NMSA). Basically, this public meeting in many counties is a formality conducted to officially delegate the actual task of tallying the votes to the County Clerk's staff. The members of the different canvassing boards have different approaches--some Commissioners may stay in attendance the entire time with the staff to observe and monitor, while other Commissioners may come and go, supervising the canvass more distantly.

The job of the Canvassing Board and/or its staff is to examine poll books and tally books of each precinct to determine if they contain the properly executed certificates required by the Election Code, as well as to ascertain whether any discrepancy, omission, or error appears in the election returns (§1-13-4 NMSA). The Canvassing Board cannot adjourn until it has canvassed all the returns of the election (§1-13-12 NMSA); however, the board must complete the canvass of the returns and declare the results within ten days from the date of the election (§1-13-13 NMSA). The expense of any proceedings necessary to complete or correct any returns or certificate is to be paid from the county General Fund upon a voucher signed by the County Clerk (§1-13-20 NMSA).

## Notes

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## CHAPTER 16 WEB RESOURCES

### A partial list

NM Association of Counties <http://nmcounties.org>  
NM EDGE <http://nmedge.nmsu.edu>  
NM Cooperative Extension Service <http://aces.nmsu.edu/>

#### **State of New Mexico** <http://newmexico.gov>

- Attorney General's Office <http://www.nmag.gov/>
- Department of Finance Administration- DFA <http://www.nmdfa.state.nm.us/>
- DFA/ Local Government Division –LGD  
[http://www.nmdfa.state.nm.us/Local\\_Government.aspx](http://www.nmdfa.state.nm.us/Local_Government.aspx)
- General Services/State Purchasing  
<http://www.generalservices.state.nm.us/statepurchasing/>
- NM Governor's Office <http://www.governor.state.nm.us/>
- Secretary of State's Office <http://www.sos.state.nm.us/>
- State Land Office <http://www.nmstatelands.org/>
- State Treasurer's Office <http://www.nmsto.gov/>
- Tax and Revenue (TRD) <http://www.tax.newmexico.gov/>
- TRD/Property Tax Division- PTD  
<http://www.tax.newmexico.gov/All-Taxes/Pages/Property-Tax.aspx>
- NM Finance Authority [www.nmfa.net](http://www.nmfa.net)

#### **Federal**

- Payment in Lieu of Taxes link to PILT map:  
<http://www.tax.newmexico.gov/SiteCollectionDocuments/NM-Payments-in-Lieu-of-Taxes-FY2012.pdf>

#### **Publications**

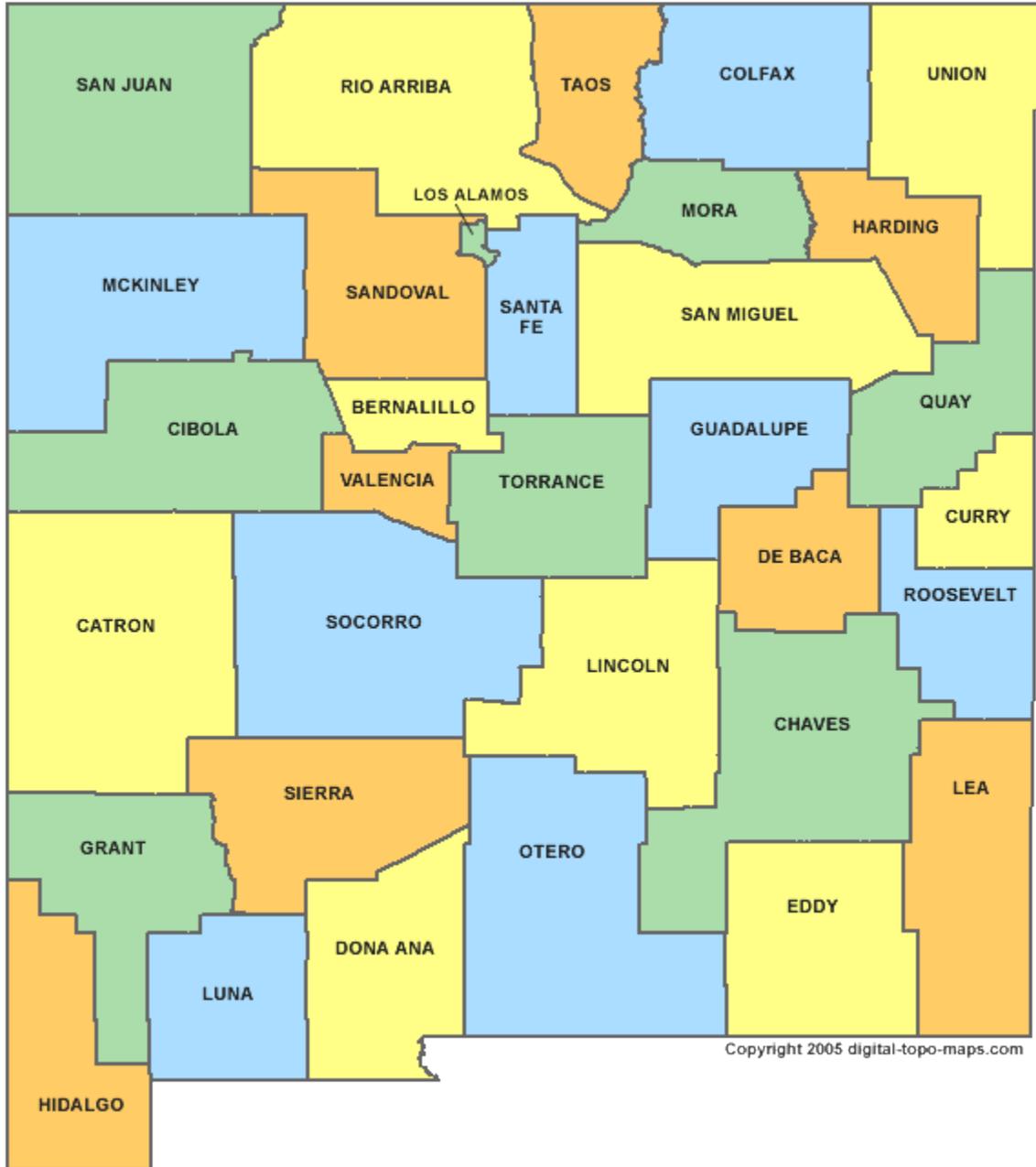
- TRD's publication: FYI-C120, *County Gross Receipts Tax Local Options*  
<http://www.tax.newmexico.gov/Forms-and-Publications/Publications/FYI-Publications/Pages/Home.aspx>
- The Open Meetings Act (OMA) Compliance Guide and a Compliance Checklist  
<http://www.nmag.gov/Publications/>
- A video that explains both NM's OMA and the Information & Public Records Act  
<http://www.nmag.gov/video/>

## Notes

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# Appendix A

## Map of NM Counties



## Notes

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## Appendix B County Classifications

| <b>Chart of 2012 County Classifications</b> |                            |                              |                                  |  |
|---|----------------------------|------------------------------|----------------------------------|--|
| <b>County</b>                               | <b>Total County Values</b> | <b>County<br/>Population</b> | <b>County<br/>Classification</b> |  |
| <b>Bernalillo</b>                           | \$ 14,452,760,775          | 664,639                      | A                                |  |
| <b>Catron</b>                               | \$ 123,330,063             | 3,730                        | B-Under                          |  |
| <b>Chaves</b>                               | \$ 1,108,397,347           | 65,779                       | B-Over                           |  |
| <b>Cibola</b>                               | \$ 308,584,213             | 27,247                       | B-Over                           |  |
| <b>Colfax</b>                               | \$ 642,105,976             | 13,726                       | B-Over                           |  |
| <b>Curry</b>                                | \$ 698,324,849             | 48,949                       | B-Over                           |  |
| <b>De Baca</b>                              | \$ 54,134,847              | 2,022                        | C                                |  |
| <b>Dona Ana</b>                             | \$ 3,743,500,833           | 210,538                      | A                                |  |
| <b>Eddy</b>                                 | \$ 3,165,680,448           | 53,890                       | B-Over                           |  |
| <b>Grant</b>                                | \$ 732,364,845             | 29,399                       | B-Over                           |  |
| <b>Guadalupe</b>                            | \$ 113,589,041             | 4,693                        | B-Under                          |  |
| <b>Harding</b>                              | \$ 102,663,483             | 691                          | B-Under                          |  |
| <b>Hidalgo</b>                              | \$ 146,801,403             | 4,854                        | B-Under                          |  |
| <b>Lea</b>                                  | \$ 3,095,370,876           | 64,698                       | B-Over                           |  |
| <b>Lincoln</b>                              | \$ 1,062,083,260           | 20,500                       | B-Over                           |  |
| <b>Los Alamos</b>                           | \$ 702,351,050             | 18,031                       | H                                |  |
| <b>Luna</b>                                 | \$ 509,657,508             | 25,133                       | B-Over                           |  |
| <b>McKinley</b>                             | \$ 752,551,526             | 71,797                       | B-Over                           |  |
| <b>Mora</b>                                 | \$ 110,871,420             | 4,889                        | B-Under                          |  |
| <b>Otero</b>                                | \$ 946,961,092             | 64,284                       | B-Over                           |  |
| <b>Quay</b>                                 | \$ 177,935,039             | 9,078                        | B-Under                          |  |
| <b>Rio Arriba</b>                           | \$ 1,553,417,641           | 40,339                       | B-Over                           |  |
| <b>Roosevelt</b>                            | \$ 305,562,527             | 20,050                       | B-Over                           |  |
| <b>San Juan</b>                             | \$ 3,995,385,726           | 130,145                      | A                                |  |
| <b>San Miguel</b>                           | \$ 514,448,898             | 29,387                       | B-Over                           |  |
| <b>Sandoval</b>                             | \$ 3,228,728,878           | 132,330                      | A                                |  |
| <b>Santa Fe</b>                             | \$ 6,916,810,420           | 144,606                      | A                                |  |
| <b>Sierra</b>                               | \$ 287,952,288             | 12,026                       | B-Under                          |  |
| <b>Socorro</b>                              | \$ 241,390,600             | 17,850                       | B-Under                          |  |
| <b>Taos</b>                                 | \$ 1,326,445,063           | 32,957                       | B-Over                           |  |
| <b>Torrance</b>                             | \$ 327,032,537             | 16,375                       | B-Over                           |  |
| <b>Union</b>                                | \$ 157,202,579             | 4,541                        | B-Under                          |  |
| <b>Valencia</b>                             | \$ 1,241,701,445           | 76,759                       | B-Over                           |  |

Counties will be reclassified April 2014

## Notes

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## **Appendix C**

### **Additional Duties the BOCC**

Some items are discussed in various chapters throughout this book

#### **Specific Duties/Authority Granted to Boards of County Commissioners**

There are a large number of statutory references to specific powers granted to the New Mexico Board of County Commissioners (BOCC). The following is a listing of many of the powers, some of which are discussed in more detail elsewhere in this document.

#### **C.1 Agriculture**

1. Upon petition, the BOCC is authorized to appropriate funds to support the Cooperative Extension Service (Section 76-2-4 New Mexico Statutes Annotated).
2. The BOCC may make appropriations to support a County Farm and Livestock Bureau (§76-2-11 NMSA).
3. Upon proper petition, the BOCC shall appoint a County Board of Horticultural Commissioners (§76-3-1 NMSA).
4. Upon proper petition, the BOCC may prohibit the importation of codling moths or other worms or insects destructive to fruit through licenses and other legal means (§76-5-1 NMSA).
5. The BOCC serves as the governing body of a Noxious Weed Control District (§76-7-12 NMSA).
6. The BOCC serves as the governing body of a Wind Erosion District (§73-22-4 NMSA).
7. The BOCC levies taxes as set by the New Mexico Livestock Board (§77-2-15 NMSA).
8. The BOCC is authorized to prohibit the running-at-large of dogs and cats (§77-1-2 NMSA) and of livestock within certain areas (§77-14-4, 5 NMSA).
9. When petitioned to do so, the BOCC may establish a predator control program (§77-15-7 NMSA) and appoint the members of a Predator Control Board (§77-15-10 NMSA).

#### **C.2 Appointments, Salaries and Other Personnel Matters**

##### **A. Appointments**

The BOCC has the power to appoint many specific county employees and board members, including the following:

1. Board of Registration (§1-4-34 NMSA)
2. Air Quality Control Board, in Class A counties (§74-2-4 NMSA)
3. Zoning Commission (§3-21-7 NMSA)
4. A water or natural gas association (§3-28-1 NMSA)
5. Housing Authority (§3-45-5 NMSA)
6. Board of Trustees of a Special Hospital District (§4-48A-6 NMSA)
7. Board members for county hospitals (§4-48B-10 NMSA)
8. Representatives to have charge of county exhibits at the State Fair (§4-38-15 NMSA)

9. Emergency Flood Superintendents (§4-50-11 NMSA)
10. Two members of a County Special District Commission (§4-53-3 NMSA)
11. County Planning Commission (§4-57-1 NMSA)
12. County Board of Horticultural Commissioners (§76-3-1 NMSA)
13. Predator Control Board (§77-15-10 NMSA)
14. County Road Superintendent (§67-4-3 NMSA)
15. Artesian Well Supervisor (§72-13-3 NMSA)
16. Disaster successors for some offices (§12-11-6 NMSA)
17. Private legal counsel (§36-1-19 NMSA)
18. County Valuation Protest Board (§7-38-25 NMSA)
19. Refuse Manager and collectors (§4-52-11 NMSA)
20. Board of Directors of a Transportation Development District (§73-23-7 NMSA)
21. Regional Planning Commission (§3-56-3 NMSA)

#### **B. Filling Vacancies**

If a vacancy in any county or precinct office occurs, other than in the office of the County Commissioner, the BOCC is empowered to fill the vacancy by appointment until a new successor is elected (§10-3-3 NMSA). If a vacancy occurs in the office of a state senator or member of the State House of Representatives, the BOCC fills the vacancy by appointment (NM Const. Art. IV, Sec. 4). In the case of a vacancy in the office of a state senator or representative from a district composed of two or more counties, the BOCC from each of the counties submits one name to the Governor who, in turn, appoints the individual to fill the vacancy from the recommendations (§2-7C-5 NMSA).

#### **C. Bonds**

Before assuming office, each county officer is required to give a bond payable to the State by January 10 following the election or within 10 days of appointment. Bonds are for the faithful performance of duties until a successor is elected or appointed. If a bond is not obtained within the specified periods, the BOCC shall declare the office vacant. The amounts required are set by statute, and are very low due to the date the law was enacted. The New Mexico Association of Counties Insurance Authority works with each county pool member and their elected officials to meet the terms of this requirement. See Chapter 2 for additional information.

#### **D. Personnel**

The BOCC sets salaries for county employees and may employ and set the salary for a County Manager (§4-38-19 NMSA). The BOCC is authorized to create a merit system by ordinance for county employees (§4-37-1, 4-41-6 NMSA; *See also* 111 N.M. 278, *BOCC v. Padilla*). The BOCC may set the office hours of other elected county officials to the extent it does not interfere with the official's ability to perform statutory duties. (AG Opinion No. 90-05; *See also BOCC v. Padilla*, 111 N.M. 278).

### **C.3 Buildings and Property**

1. The BOCC may authorize the construction and repair of all county buildings (§4-38-16 NMSA) and is responsible for the care of all county property including property jointly owned and managed with a municipality (§4-38-18, §5-5-5 NMSA).
2. Necessary county buildings include a courthouse, jail, hospital, public libraries, facilities for county fairs and cultural and athletic events, sewage facilities, water systems, sanitary landfill systems, airports, roads, bridges and juvenile detention facilities (§4-49-6 NMSA). The BOCC is authorized to issue bonds for the construction and repair of such buildings and facilities (§4-49-1, §4-49-21 NMSA). In counties with a population over 25,000, the BOCC may issue bonds and build a county auditorium (§5-3-11, 41-4-4 NMSA).
3. The BOCC is required to insure county buildings (§13-5-1, § 5-5-5 NMSA).
4. The BOCC may sell county buildings and lands to public entities (§13-6-2 NMSA) at a price set by the BOCC (§4-47-2 NMSA). They may authorize the sale of county buildings and land at public auction (§4-47-3 NMSA).
5. All counties may appropriate money from their general funds to acquire, build, improve, or maintain non-commercially licensed TV translator stations (§5-2-1 NMSA).

### **C.4 Election Duties**

1. The BOCC is responsible for designating polling places and reorganizing precincts (§1-3-2 NMSA), obtaining adequate polling places (§1-3-7 NMSA), creating absentee voter precincts (§1-6-20 NMSA) and designating polling places for the absentee voter precincts (§1-6-22 NMSA).
2. The County Clerk is responsible for the care and custody of voting machines (§1-9-12 NMSA).
3. The BOCC is, *ex officio*, the County Canvassing Board (§1-13-1 NMSA). The County Clerk is the Chief Elections Officer for the County.
4. The Voter Records System Act is mandatory and supplemental to the Election Code (§1-5-3 NMSA as amended) and requires records for all voter precincts.

### **C.5 Fairs**

1. The BOCC may appoint a representative to have charge of the County's exhibits at the State Fair (§4-38-15 NMSA) and may annually appropriate up to \$1,000 for activities aiding their county in displaying its products at the State Fair (§4-38-14 NMSA).
2. All counties may maintain and conduct county fairs (§16-6-31 NMSA).

### **C.6 Finance**

1. The BOCC serves as the County Board of Finance *ex officio* (§6-10-8 through 6-10-10 NMSA). In coordination with and upon the advice of the County Treasurer, the Board of Finance determines the qualifications and selection of banks, savings and loan institutions, credit unions and other institutions to receive the County's deposits.

2. The BOCC must examine and settle all accounts of the receipts and expenses of the County, and all accounts chargeable against the County (§4-38-16 NMSA). All accounts must be itemized and the Board can disapprove all or part of the accounts (§4-45-3 NMSA).
3. The BOCC is responsible for seeing that a statement of receipts and expenditures is prepared on an annual basis (§4-38-27 NMSA). The fiscal year shall begin on July 1 and end on June 30 of each year. All transactions are public record.
4. If the BOCC approves payment of county funds without the authority of law, they become liable for the amount paid, and sometimes for more (§4-38-28 NMSA).
5. Counties are construed as agents of the United States Government when making expenditures authorized by any act of the U.S. Congress (§4-36-3 NMSA).
6. No county shall issue general obligation bonds unless approved by the voters. However, revenue bonds can be issued by 2/3 vote of the BOCC (§4-62-4 NMSA).
7. The BOCC works with the County Treasurer to set investment policy and to invest county funds in order to obtain the highest return possible.

### **C.7 Health and Safety**

1. The County may construct, purchase and/or operate a hospital. The County also has power to make agreements with state, public and private corporations for the care of the county's sick and of indigent persons (§4-48B-5, §4-48B-8 NMSA). An agreement may be made for a joint county-municipal hospital (§4-48B9, §3-44-4 NMSA). The counties also have the authority to lease hospitals (§4-48B-7 NMSA).
2. A special hospital district may be established to serve one or more counties if approved by the voters of the affected counties (§4-48A-3 NMSA). The governing body of the hospital shall be the Board of Trustees consisting of the greater of either five members or a number equal to the number of counties which agree to form the hospital district (§4-48A-6 NMSA). All members are elected to a term of five years. Each member must be a resident of the sub-district of the hospital area. The County or Counties are responsible for conducting the initial election of a Special Hospital District Board of Trustees (§4-48A-6 NMSA).
3. Counties may provide ambulance service in the absence of an established service (§5-1-1 NMSA). In addition, the County may enter into a joint powers agreement with another governing body to provide ambulance service. Ambulance service costs for the indigent are to be paid on behalf of eligible indigent county residents by the County. Out-of-state charges may be approved only where no in-state equivalent exists.
4. The County is responsible for providing office space for the District Health Officer and staff. The State employs the District Health Officer. Additional staff may be hired at the County's expense, but they will remain state employees (§24-4-2 NMSA).
5. In *Class A* counties, the BOCC may create an Air Quality Control Board (§74-2-4 NMSA).

6. The BOCC may establish independent fire districts within the County but outside of the corporate limits of a city, town, or village (§5-7-1, §4-37-1 NMSA). The County may purchase firefighting services from municipalities (§4-36-5 NMSA).
7. The BOCC may establish a county water system to supply water to inhabitants of unincorporated areas (§72-4-3 NMSA) and may issue revenue bonds for the water system (§72-4-4, §4-62-1 NMSA).
8. The BOCC has the power to regulate the collection of refuse or to delegate that power to the Manager. They also have the power to acquire land or build facilities for the disposal of refuse (§4-52-11 NMSA).
9. The County is responsible for the burial of indigents, subject to the requirements and limitations of the Act (§24-13-1 NMSA).
10. The BOCC may designate and regulate flood plain and mud slide hazard areas (§3-18-7 NMSA).
11. The BOCC may inspect rivers and streams where flood waters are liable to cause damage to property or life, to cause to be constructed dikes, embankments, dams, ditches or excavations necessary to control such flood water to prevent damage (§4-50-3 NMSA).
12. Counties are authorized to own, lease, or sell projects for the purpose of reducing, abating, or preventing pollution (§4-60-3 NMSA).
13. The BOCC has the power of eminent domain for taking private land for public purposes (§42A-1-1 *et seq.* NMSA).
14. The BOCC may maintain and operate a housing project in the interests of the County (AG Opinion No. 57-25; 4-37-1; §3-45-3 NMSA).
15. The BOCC acts as the County Indigent Hospital and Health Care Board (§27-5-5 NMSA) to administer claims and make regulations pursuant to the Indigent Hospital and County Health Care Act (§27-5-1 through 18 NMSA). This Act recognizes that each county is the responsible agency for ambulance transportation and provision of health care to indigent patients domiciled in the County for at least three months.
16. Counties may issue building permits and inspect building construction for compliance with construction codes (§3-18-7 NMSA).
17. Counties may provide direct or indirect financial assistance to economic development projects, pursuant to the terms of §5-10-1 through 13 NMSA.

### **C.8 Licensing and Regulation of Businesses**

1. The BOCC may issue licenses for jewelry auctions to be held outside of municipalities (§61-16-6 NMSA).
2. Counties may exercise a liquor sales local option if approved in an election (§60-54-1 NMSA). The BOCC does not regulate the sale of alcoholic beverages. That authority is left to the Alcoholic Beverage Control Commission. The BOCC may, however, tax the holders of liquor licenses up to a maximum of \$250 per year (§7-24-2 NMSA).

### **C.9 Miscellaneous**

1. Counties are authorized to enter into Joint Powers Agreements (§5-5-6, §11-1-3 NMSA) with other public entities.
2. The BOCC may establish a county library (§4-49-6 NMSA).
3. The BOCC may establish and equip juvenile detention homes (§33-6-1 NMSA).
4. The BOCC must purchase and provide to other county officers such stationery, postage and office supplies as necessary (§4-44-33 NMSA).

### **C.10 Municipalities and Unincorporated Areas**

1. The BOCC performs a number of functions in the creation of a new municipality (§3-2-1 NMSA) and in the dis-incorporation of an existing municipality (§3-4-1 NMSA).
2. The BOCC also approves subdivisions in unincorporated areas (§3-20-6 NMSA).
3. The BOCC may grant franchises to utilities for their use of the County's streets and other rights of way or property, and may charge a fee limited to the County's reasonable actual costs relating to administration of the franchise. (§62-1-3 NMSA).

### **C.11 Ordinances**

Counties are granted the same powers as are granted to municipalities (§4-37-1 NMSA).

Therefore, the BOCC may enact ordinances addressing the same subject matters as municipalities, unless doing so would be inconsistent with statutory or constitutional limitations placed on counties.

### **C.12 Planning and Zoning**

1. The BOCC may act as the zoning commission, designate a Planning Commission to serve as zoning commission, or appoint a Zoning Commission (§3-21-7 NMSA).
2. The BOCC may create a County Housing Authority (§3-45-4 NMSA).
3. The BOCC may, by ordinance, create a Planning Commission (§4-57-1 NMSA).
4. The BOCC serves as a scenic highway zoning authority (§67-13-9 NMSA).
5. The BOCC may establish historic districts by zoning (§3-22-3 NMSA).
6. The BOCC may create an enterprise zone (§5-9-1 NMSA) to foster job creation.
7. Some counties have adopted land use plans and environmental planning ordinances citing the National Environmental Protection Act and various federal regulations as authority.

### **C.13 Roads, Bridges, Airports, Public Buildings, Water and Sewer Systems**

1. The BOCC may create, alter, or discontinue any road running through one or more precincts in their county (§4-38-24 NMSA).
2. The BOCC may order and direct the construction of bridges (§4-38-25 NMSA).
3. The BOCC may build and maintain a county airport (§4-38-31 NMSA).
4. The BOCC may create scenic highway zones on highways designated as scenic roads by the Legislature (§67-13-4 NMSA).
5. The BOCC may grant rights-of-way to lay and maintain oil and gas pipelines in, on or

over the public highways (§70-3-7 NMSA).

6. The BOCC may enter into cooperative agreement with State Transportation for the construction or improvement of highways (§67-3-28 NMSA).
7. Pursuant to Art. IX, Sec. 10, the BOCC may issue general obligation bonds to borrow money for the following purposes:
  - A. Erecting, remodeling and making additions to necessary public buildings
  - B. Constructing or repairing public roads and bridges
  - C. Constructing or acquiring a system for supplying water, including the acquisition of water and water rights, necessary real estate or rights-of-way and easements
  - D. Constructing or acquiring a sewer system, including the necessary real estate or right-of-way and easements
  - E. Constructing an airport or sanitary landfill, including the necessary real estate
  - F. Acquiring necessary real estate for open space, open space trails, and related areas or facilities
  - G. Purchasing books and other library resources for libraries in the County

#### **C.14 General Bond Indebtedness**

General bond indebtedness shall be incurred only after the proposition to create such debt has been voted on and passed. No bonds shall be issued for more than 20 years and no monies derived from general obligation bonds shall be used for maintaining existing buildings and, if so, such bonds shall be invalid. (§4-49-1 *et seq.*, §6-15-1 *et seq.* NMSA).

#### **C.15 Special Districts or Associations**

- The BOCC may appoint members of a water or natural gas association which shall operate at least five miles outside of municipalities (§3-28-1 NMSA).
- The BOCC has certain responsibilities in the formation of drainage districts and in elections involving drainage districts (§73-6-17 NMSA), districts in federal projects (§73-8-7 NMSA), irrigation districts (§73-9-4, §73-9-5 NMSA), electrical irrigation districts (§73-12-1 NMSA), and special hospital districts (§4-48A-6 NMSA).
- All counties except *Class H*, under the Public Improvement District Act, are authorized to create improvement districts for the purpose of developing street, road, sidewalk, bridge, water, sewer, gas, telephone and flood control projects (§4-55A-1 through 43 NMSA).
- The BOCC has certain responsibilities in the formation of water and sanitation districts in *Class A* and most *Class B* counties and may cause the creation of water and sanitation districts (§73-21-1 through 55 NMSA).

#### **C.16 Accounts and Suits against County; Appeal from Disallowance of Payment on Account**

When a claim of a person against a county is disapproved in whole or in part by the BOCC, that person may appeal the decision to the District Court, pursuant to statute (§39-3-1 NMSA).

## Notes

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## Appendix D General Calendar of a BOCC

| Date  | JANUARY Event or Action Required  | Statute                              |
|---|---|--------------------------------------|
| First meeting (and usually first order of business) in January                                      | In the absence of an ordinance addressing it, the BOCC votes to choose a Chairperson to preside at their meetings.  | §4-38-10                             |
| First meeting in January  | BOCC orders preparation of statement of County=s receipts and expenditures for preceding calendar year. Statement to be signed by Chairperson and County Clerk to publish.  | §4-38-27<br><b>Note:</b> 1876 law    |
| First meeting in January (or more often)  | BOCC to examine orders returned by County Treasurer by comparing with the record of orders in the Clerk's office, along with other financial tracking and recording set forth in the statute.   | §4-48(B)-10<br><b>Note:</b> 1876 law |
| Not a January requirement but commonly done at first Jan. meeting; must be done on an annual basis. | BOCC to determine (i.e. by resolution) in a public meeting the reasonable notice it will provide to the public in advance of its meetings.  | §10-15-1 (D)                         |
| By January 15   | Counties that authorize payment for services to a sole community provider hospital shall provide the State the budgeted amount of sole community provider payments, by hospital, for the next FY.   | §27-5-12.2 (E)                       |
| January of every odd numbered year  | Counties that have not adopted a tax rebate for low income taxpayers shall conduct a public hearing on the question of whether a property tax rebate should be provided for by ordinance, for the benefit of low income property taxpayers. <b>Note:</b> <i>to meet the statutory notice requirements, the hearing must be set and published/broadcast well in advance of the January public hearing.</i> | §7-2-14.3(G)                         |
| Coincides with Legislative Session  | New Mexico Association of Counties Legislative Conference. This annual conference is held at the State Capitol in Santa Fe.   |                                      |
| Date  | FEBRUARY Event or Action Required   | Statute                              |
| First regularly scheduled meeting in February of odd numbered years                                 | BOCC appoints three voters and two alternates (See statute for member qualifications) to constitute the County's Board of Registration.   | §1-4-34                              |
| Date  | MARCH Event or Action Required  | Statute                              |
| Due by end of month   | BOCC (their public works or road departments) will be finalizing their report regarding county road mileages, so that BOCC will have time to meet and certify it at a public meeting, to submit it to the State prior to the April 1 deadline.  | §67-3-28.3 and<br>§7-1-6.26          |

| Date                    | APRIL Event or Action Required  | Statute  |
|-------------------------|---|--|
| Before April 1          | BOCC to certify and submit report of mileages of all public roads (by name, route and location) maintained by their county to the State Transportation Department.  | §67-3-28.3 and §7-1-6.26   |
| Before April 1          | Counties with state-approved DWI programs are eligible to apply (by April 1 <sup>st</sup> ) for a funding distribution. The State distributes the funds quarterly on (or before) Sept. 10, Dec. 10, March 10, and June 10.  | §11-6A-6 (C), (D)  |
| April quarterly meeting | BOCC's second quarterly meeting   | §4-38-8<br><b>Note: 1876 law</b>   |
| Date                    | MAY Event or Action Required  | Statute  |
| By end of month         | BOCC (manager or finance staff) finalizing County's budget, so that BOCC will have time to meet and approve it in time to submit to the DFA, LGD by June 1 deadline.  | §6-6-2(A)  |
| By end of month         | Last month that BOCC may consider imposing an annual liquor license tax (maximum is \$250 per year) on holders of liquor licenses within their county; deadline is June 1.  | §7-24-2  |
| Date                    | JUNE Event or Action Required   | Statute  |
| On or before June 1     | BOCC files its proposed budget for next fiscal year with DFA, LGD. <b>Note: 6-6-2 (B) requires the State to examine each proposed budget and on or before July 1 of each year, to approve and certify to each local public body an operating budget for use pending final approval.</b> | §6-6-2(A)  |
| On or before June 1     | For counties composing local option districts, June 1 is the deadline for the BOCC to pass a resolution imposing an annual non-prohibitive license tax on holders of state liquor licenses.   | §7-24-2  |
| Before June 30          | In counties operating or maintaining a county hospital, BOCC is to appoint members of its governing hospital board for staggered terms, such that not more than one third of the hospital board's members (or as near thereto as possible) expire on June 30 of each year.              | §4-48(B)-1   |
| Before June 30          | BOCC is to issue an order imposing the levy of a special tax at a rate fixed each year by the NM Livestock Board  | §7-37-7.1<br><b>Note: This law is repealed effective July 1, 2006B See §7-2-28</b> |
| Typically in June       | The New Mexico Association of Counties Annual Conference is rotated amongst host counties and is held in June.  |  |
| Date                    | JULY Event or Action Required   | Statute  |
|                         |   |  |
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| Date   | AUGUST Event or Action Required   | Statute                |
|--|---|------------------------|
| August 1   | Firm deadline after which the State will not distribute funds to any county for road purposes until mileages are certified (by the tardy BOCC) in accordance with this statute.   | §67-3-28.3             |
| Date   | SEPTEMBER Event or Action Required  | Statute                |
| No later than Sept. 1  | Counties adopting an ordinance granting a low income property tax rebate (See January entry above) shall notify the State about the adoption of the ordinance and furnish a copy of the ordinance no later than September 1 of the first taxable year to which the ordinance applies.   | §7-2-14.3 (H)          |
| By Sept. 30  | BOCC shall confirm the amount of the sole community provider hospital payments authorized for each hospital for the past fiscal year based on a report prepared by the hospital using a format jointly prescribed by the counties and hospitals that provides aggregate data, including the number of indigent patients served and the total cost of uncompensated care provided by the hospital. <b>Note:</b> <i>Counties should then proceed to negotiate agreements with each sole community provider hospital providing services for county residents on the anticipated amount of the payments for the following fiscal year-to meet the Jan. 15 deadline.</i> | §27-5-12.2 (C) and (D) |
| No later than Sept. 6  | The Secretary of DFA shall issue a written order each year by 9/1 setting the property tax rates for each county and the budget of each as approved by DFA. <b>Note:</b> <i>A copy of the property tax rate-setting order shall be sent to each BOCC and to each Assessor within five days of the date the order is made.</i>   | §7-38-33               |
| Within five days of receiving the written order (See statute above) from DFA | BOCC is to issue a written order imposing the tax rates on the net taxable value of property allocated to the appropriate governmental units. The BOCC also shall immediately deliver a copy of its tax rate-setting order to the Assessor.   | §7-38-34               |
| On or before Oct. 1  | BOCC may expect to receive an annual report from the County=s Board of Horticultural Commissioners (on the condition of fruit interests in their several districts, pest eradication, quarantines against insects, pests and diseases, etc).  | §76-3-8                |
| Date   | OCTOBER Event or Action Required  | Statute                |
| On or before Oct. 1  | BOCC receives annual report from its Board of Horticultural Commissioners (about fruit interests in their several districts, pest eradication, pests and diseases and insect quarantines, etc).   | §76-3-8                |

| Date   | NOVEMBER Event or Action Required  | Statute   |
|--|--|---|
| Not later than first Monday in Nov. in <b>odd-numbered years</b> | BOCC shall (by resolution) designate the ADA accessible polling place for each precinct; create additional precincts to meet the requirements of Section 1-3-1 or upon petition pursuant to Section 4-38-21; create additional polling places in existing precincts as necessary pursuant to Section 1-3-7.1; and divide any precincts as necessary to meet legal and constitutional requirements for redistricting. | §1-3-2  |
| Before Dec. 1  | BOCC may expect its staff to be presenting for its approval a proposed annual report to be sent to the Governor at year's end. <b>Note:</b> <i>Board of Horticultural Commissioners' annual report is to be incorporated into the BOCC's annual report.</i>  | §76-3-8   |
| Date   | DECEMBER Event or Action Required  | Statute   |
| On or before Dec. 1  | BOCC submits an approved annual report to the Governor each year. <b>Note:</b> <i>Board of Horticultural Commissioners= annual report is to be incorporated into the BOCC's annual report.</i>   | §76-3-8<br><b>Note:</b> <i>there may be other statutes that impose this obligation or refer to this report.</i>   |
| No later than Dec. 31  | Counties having adopted a low income property tax rebate ordinance (See January entry above), shall receive from the State a certified report with the amount of revenues lost as a result of the ordinance, and the County shall promptly pay the amount certified to the State.  | §7-2-14.3 (l)   |
| Date   | PERIODIC Event or Action Required  | Statute   |
| At least annually  | The Open Meetings Act requires each BOCC to determine at least once annually the reasonable notice it will provide to the public in advance of its meetings. (It is common for such Notice Resolutions to be adopted at the first January meeting of each year as a part of several matters of routine annual business.)   | §10-15-1(D)   |
| Once each quarter in Jan., Apr., Jul. and Oct.                   | The BOCC shall meet at least once per quarter in these months at the County Seat, and more often as needed.  | §4-38-8<br><b>Note:</b> <i>Since this law was passed, the number of services and transactions provided by several counties make it necessary to meet more frequently.</i> |
| Within 10 days of each BOCC meeting and by the next BOCC meeting | The BOCC is to have draft minutes available for review by the public within ten (10) days from the date of its meeting; and the minutes are to be approved at the BOCC's next meeting.   | §10-15-1(G)   |

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|---|---|--|
| By tenth of each month  | BOCC must prepare and publicize a summary of minutes of all meetings, reflecting all action taken and a statement of all expenditures made, including a list of all warrants issued during the previous month.  | §10-17-1<br>This is antiquated in light of the numerous meetings now held by the BOCCs, the Open Meetings Inspection of Public Records' Acts requirements, and the modern technological methods of making public information available for review by the public. |
| Monthly   | After minutes are filed in Clerk's office per 10-17-1, BOCC is to mail them to the newspaper for their use as they see fit  | §10-17-2<br><b>Note:</b> <i>this is also a 1939 law.</i>   |
| First Monday of each month  | All county and precinct officers (except for justices of the peace) must file monthly statements with the County Clerk showing an itemized account of all public monies received and disbursed by them. The BOCC must audit and adjust statements in accordance with the facts.                                   | §10-17-4<br><b>Note:</b> <i>even this law may seem antiquated in light of DFA or other regulations enacted since.</i>  |
| At least quarterly  | Financial reports are due from each county regarding the pertinent details regarding applications for federal money or federal grants-in-aid or regarding federal monies or grants-in-aid received, including details of programs, matching funds, personnel requirements, salary provisions and program numbers. | §6-6-2 (F)   |
| Approximately every two years, but as often as needed, ending four months prior to a Primary Election | Not less than four months before each Primary Election, the BOCC may create, divide, abolish, or consolidate polling places or change boundaries of polling places. <b>Note:</b> <i>it can afterward, but requires filing in District Court for an Order.</i>   | §1-3-5   |
| Prior to a Primary, General or Statewide Election   | BOCC shall adopt a resolution creating an absent voters precinct for each State Representative District in the County.  | §1-6-20  |
| Prior to Primary and General Elections  | Ninety (90) days prior to the election, the BOCC shall apply to the State Board of Finance for additional voting machines required by the Election Code.  | §1-9-7   |
| Within three days after each Primary, General and Statewide election                                  | The BOCC, sitting as the Canvassing Board, shall meet to proceed to canvas the election returns.<br><b>Note:</b> <i>in many if not most counties, the Commissioners do not perform the actual tallying tasks, and rather oversee their County Clerk, or other staff to whom they have delegated.</i>              | §1-13-13   |

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|--|---|--|
| Annually, bi-annually and upon vacancy | In counties that have established a Planning Commission, the BOCC periodically will re-appoint its five members according to the terms of the ordinance.  | §4-57-1  |
| Periodically                           | BOCC authorizes Chairperson's facsimile signature to be used on behalf of County, and further votes on each individual issue for which the facsimile signature is authorized or required by law to be used.   | §6-9-1 et al, i.e. '4-48B-29   |
| Twice a year                           | The BOCC must visit and inspect the jail in their respective counties for cleanliness and discipline, and issue a report to the District Court. <b>Note:</b> Some counties designate a subcommittee of the full BOCC to inspect and report back to the full Board, and to the District Court. | §33-3-4<br><b>Note:</b> 1865 law in essence requires the BOCC to report violations against itself because any violations will be by agents of the BOCC or by Sheriff and the BOCC is the entity that is named in suits against the County. |

*\*NOTE: No attempt has been made to make this calendar complete. It may serve as a checklist of important items and activities for the County Commissioner.*

## **GLOSSARY COMMONLY USED WORDS & TERMS**

- **Accountability**- taking responsibility for your own actions as well as holding others responsible for theirs
- **Assessor, County**- an elected official who assesses property for taxation
- **Board of County Commissioners (BOCC)**- the legislative body of the County
- **Board of Finance**- Board of County Commissioners as *ex officio*
- **Canvassing Board**- Board of County Commissioners as *ex officio*
- **Clerk, County**- an elected official serving as custodian of records, commission minutes, and elections
- **Code of Ethics**- written statement of values
- **Conflict of Interest**- when one activity could potentially corrupt (or appear to corrupt) another
- **Cooperative Extension Service**- serves NM Counties and brings education to rural areas
- **County Classification**- based on population and the total assessed valuation of each county at the end of the preceding year
- **Per Diem and Mileage**- governs reimbursement for travel costs associated with legitimate county business
- **Fiduciary Responsibility**- the public trust
- **Funds, Designated**- specific to the enabling legislation allowing collection (e.g. Fire, Indigent, Hospital, etc.)
- **Joint Powers Agreement**- an agreement to share power between governmental entities
- **New Mexico Association of Counties**- a private non-profit with a public purpose to serve as resource to New Mexico Counties
- **New Mexico Constitution**- foundation for law and government in New Mexico
- **New Mexico State Statutes**- laws created by the New Mexico State Legislature
- **New Mexico State Regulations**- policies made by administrative agencies

- **Open Meetings/Public Records Acts**- New Mexico sunshine laws which insure transparency
- **Probate Judge, County**- an elected official required to hold court overseeing matters of estates and wills
- **Public Trust**- the trust placed in one elected to public office
- **Sheriff, County**- an elected official responsible for preserving the peace
- **Stewardship**- a responsibility to take care of something one does not wholly own
- **Treasurer, County**- an elected office responsible for keeping account of all county funds received and disbursed, and serving as *ex officio* county tax collector
- **Voter Convenience Centers**- up to 10 combined precincts created within the County to offer greater access to voting

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**Notes**

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