

SENATE RULES COMMITTEE SUBSTITUTE FOR
SENATE BILL 434

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

AN ACT

RELATING TO PUBLIC OFFICERS; AMENDING SECTIONS OF THE NMSA 1978
TO PROVIDE FOR TRAINING OF MUNICIPAL ELECTED OFFICERS BY THE
DEPARTMENT OF FINANCE AND ADMINISTRATION.

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

SECTION 1. Section 3-10-2 NMSA 1978 (being Laws 1965,
Chapter 300, Section 14-9-2) is amended to read:

"3-10-2. OFFICERS--OATH AND BOND--FAILURE TO QUALIFY.--

A. ~~[Any]~~ An officer elected or appointed to ~~[any]~~ a
municipal office shall take an oath or affirmation to support
the constitution of the United States and the constitution and
laws of New Mexico and to faithfully perform the duties of
~~[his]~~ the office.

B. For the care and disposition of municipal funds
in the employee's custody and for the faithful discharge of the

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1 employee's duties, the governing body of the municipality shall
2 require a corporate surety bond from the treasurer, the police
3 officer and any other employee it designates. In lieu of
4 individual corporate surety bonds, the governing body may
5 secure a blanket corporate surety bond. The municipality shall
6 pay for the surety bond.

7 C. The governing body of any municipality may
8 declare vacated the office of any person who fails, within ten
9 days after ~~[he]~~ the person has been notified of ~~[his]~~ the
10 person's election or appointment to office, to take the oath of
11 office or to give bond when required.

12 D. The department of finance and administration, in
13 consultation with the New Mexico municipal league, shall:

14 (1) establish the form and content of a
15 training course for officers elected or appointed to an
16 elective municipal office in ethics, finances, audit
17 requirements, the Inspection of Public Records Act, the Open
18 Meetings Act and such other topics as the department may
19 require; and

20 (2) select and, in the case of providers other
21 than the department, enter into agreements with authorized
22 providers of the training course, which may be other
23 governmental or nongovernmental entities. Training course
24 providers shall issue certificates of completion to municipal
25 officials attending the training course, duplicates of which

1 shall be sent to the department.

2 E. An officer elected or appointed to an elective
3 municipal office shall, within one year of being elected or
4 appointed, successfully complete the training course
5 established by the department of finance and administration
6 pursuant to Subsection D of this section from a provider
7 approved by the department. The municipality shall reimburse,
8 in accordance with the Per Diem and Mileage Act, any travel
9 expenses that the municipal officer incurs to attend the
10 training course and pay any fee charged by the service
11 provider.

12 F. The secretary of finance and administration may
13 summarily suspend the compensation of a municipal officer who
14 fails to attend the required training course by the deadline
15 established in this subsection. Such suspension shall:

16 (1) be by written order addressed to the
17 municipal officer and the mayor of the municipality or, if the
18 office of mayor is vacant or the municipal officer failing to
19 timely complete the training course is the mayor, the mayor pro
20 tem, president or presiding officer of the governing body, in
21 care of the municipality;

22 (2) be effective upon delivery of the written
23 order to the municipality;

24 (3) affect only the compensation that would
25 otherwise be due for services rendered after the effective date

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1 of the written order; and

2 (4) continue until such time as the secretary
3 of finance and administration determines that the municipal
4 officer has attended the required training course and issues a
5 written order lifting the suspension to the municipal officer
6 whose compensation was suspended and the mayor of the
7 municipality or, if the office of mayor is vacant or the
8 municipal officer whose compensation was suspended is the
9 mayor, the mayor pro tem, president or presiding officer of the
10 governing body, in care of the municipality. The municipality
11 shall remit to the municipal officer whose compensation was
12 suspended all compensation earned during the suspension within
13 a reasonable time after receipt of the written order lifting
14 the suspension."

15 SECTION 2. Section 10-1-13 NMSA 1978 (being Laws 1967,
16 Chapter 238, Section 1, as amended) is amended to read:

17 "10-1-13. COUNTY OFFICERS--OATH--BOND.--

18 A. As used in this section, "county officer" means
19 county commissioner, county assessor, county clerk, county
20 sheriff, county treasurer, probate judge, county flood
21 commissioner and small claims court clerk.

22 B. Before assuming the duties of office, each
23 county officer shall take and subscribe the oath of office
24 prescribed by the constitution of New Mexico and give an
25 official bond payable to the state and conditioned for the

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1 faithful performance of duties, during the county officer's
2 term of office and until a successor is elected or appointed
3 and is qualified, and that the county officer shall pay all
4 money received in the county officer's official capacity to the
5 person entitled to receive it. The bond shall be executed by a
6 corporate surety company authorized to do business in this
7 state. The amount of the bond required shall be fixed by the
8 board of county commissioners in a sum equal to twenty percent
9 of the public money handled by the county officer during the
10 preceding fiscal year but not to exceed:

11	county commissioner - - - - -	\$ 5,000
12	county assessor - - - - -	5,000
13	county clerk - - - - -	10,000
14	county sheriff - - - - -	20,000
15	county treasurer - - - - -	50,000
16	probate judge - - - - -	5,000
17	county flood commissioner - - - - -	10,000
18	small claims court clerk - - - - -	10,000.

19 C. The department of finance and administration, in
20 consultation with the New Mexico association of counties,
21 shall:

22 (1) establish the form and content of a
23 training course for officers elected or appointed to an
24 elective county office in ethics, finances, audit requirements,
25 the Inspection of Public Records Act, the Open Meetings Act and

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1 such other topics as the department may require; and

2 (2) select and, in the case of providers other
3 than the department, enter into agreements with authorized
4 providers of the training course, which may be other
5 governmental or nongovernmental entities. Training course
6 providers shall issue certificates of completion to county
7 officials attending the training course, duplicates of which
8 shall be sent to the department.

9 D. An officer elected or appointed to an elective
10 county office shall, within one year of being elected or
11 appointed, successfully complete the training course
12 established by the department of finance and administration
13 pursuant to Subsection C of this section from a provider
14 approved by the department. The county shall reimburse, in
15 accordance with the Per Diem and Mileage Act, any travel
16 expenses that the county officer incurs to attend the training
17 course and pay any fee charged by the service provider.

18 E. The secretary of finance and administration may
19 summarily suspend the compensation of a county officer who
20 fails to attend the required training course by the deadline
21 established in Paragraph (3) of this subsection. Such
22 suspension shall:

23 (1) be by written order addressed to the
24 county officer and the chair of the board of county
25 commissioners or, if there is no chair or the county officer

1 failing to timely complete the training course is the chair,
2 the county clerk, in care of the county;

3 (2) be effective upon delivery of the written
4 order to the county;

5 (3) affect only the compensation that would
6 otherwise be due for services rendered after the effective date
7 of the written order; and

8 (4) continue until such time as the secretary
9 determines that the county officer has attended the required
10 training course and issues a written order lifting the
11 suspension to the county officer whose compensation was
12 suspended and the chair of the board of county commissioners
13 or, if there is no chair or the county officer whose
14 compensation was suspended is the chair, the county clerk, in
15 care of the county. The county shall remit to the county
16 officer whose compensation was suspended all compensation
17 earned during the suspension within a reasonable time after
18 receipt of the written order lifting the suspension.

19 ~~[G.]~~ F. Each county officer shall appoint a deputy
20 or clerk, as allowed by law, who shall take the oath of office
21 required of the appointing county officer and shall receive
22 salary as provided by law. In case of the death of the
23 appointing county officer, the deputy shall continue in office
24 and perform the duties of the county officer until a new county
25 officer is appointed and qualified as required by law.

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