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HOUSE BILL 567

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Ray Begaye

AN ACT

**RELATING TO COUNTY OFFICERS; PROVIDING FOR THE COUNTY CLERK OF
A COUNTY TO BE EMPLOYED BY THE COUNTY MANAGER OR BOARD OF
COUNTY COMMISSIONERS.**

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

**Section 1. Section 4-38-6 NMSA 1978 (being Laws 1899,
Chapter 30, Section 1, as amended) is amended to read:**

"4-38-6. ELECTION--TERM --

**A. In each county, all county commissioners shall
be elected to serve four-year terms, subject to the provisions
of Subsection B of this section.**

**B. In those counties that consist of a three-
member board of county commissioners, the secretary of state
shall designate by lottery the terms for each county
commission district, which shall elect two county**

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1 commissioners for terms of four years and one county
2 commissioner for a term of two years. The terms for two
3 commissioners shall expire in the same year.

4 C. In those counties that, prior to 1992, have not
5 had four-year terms for elected officials, the assessor,
6 sheriff and probate judge shall be elected to four-year terms
7 and the treasurer [~~and clerk~~] shall be elected to a two-year
8 [~~terms~~] term in the 1994 general election; thereafter, all
9 elected officials shall be elected for terms of four years.
10 The terms of the assessor, sheriff and probate judge shall
11 expire in the same year, and the [~~terms~~] term of the treasurer
12 [~~and clerk~~] shall expire in the same year. "

13 Section 2. A new section of Chapter 4, Article 40 NMSA
14 1978 is enacted to read:

15 "[NEW MATERIAL] COUNTY CLERK--EMPLOYMENT.--The county
16 clerk of each county shall be employed by the county manager.
17 If the county does not have a county manager, the board of
18 county commissioners shall employ the county clerk. The
19 county clerk shall receive a salary to be set by the county
20 manager, subject to approval by the board of county
21 commi ssi oners. "

22 Section 3. Section 4-44-4 NMSA 1978 (being Laws 1957,
23 Chapter 196, Section 2, as amended) is amended to read:

24 "4-44-4. CLASS A COUNTIES--SALARIES.--The annual
25 salaries of elected officers of class A counties shall not

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1 exceed:

2 A. county commissioners, twenty-two thousand three
3 hundred fifty-eight dollars (\$22,358) each;

4 B. treasurer, forty-nine thousand five hundred
5 twenty-eight dollars (\$49,528);

6 C. assessor, forty-nine thousand five hundred
7 twenty-eight dollars (\$49,528);

8 D. sheriff, fifty-one thousand six hundred fifty
9 dollars (\$51,650);

10 [~~E. county clerk, forty-nine thousand five hundred~~
11 ~~twenty-eight dollars (\$49,528);~~

12 ~~F.] E. probate judge, twenty-one thousand seven
13 hundred ninety-two dollars (\$21,792); and~~

14 [~~G.] F. county surveyor, nineteen thousand four
15 hundred forty-two dollars (\$19,442). "~~

16 Section 4. Section 4-44-4.1 NMSA 1978 (being Laws 1986,
17 Chapter 67, Section 2, as amended) is amended to read:

18 "4-44-4.1. CLASS B COUNTIES--OVER THREE HUNDRED MILLION
19 DOLLARS VALUATION--SALARIES.--The annual salaries of elected
20 officers of class B counties with an assessed valuation of
21 over three hundred million dollars (\$300,000,000) shall not
22 exceed:

23 A. county commissioners, seventeen thousand two
24 hundred sixty-four dollars (\$17,264) each;

25 B. treasurer, forty-three thousand three hundred

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1 one dollars (\$43, 301);

2 C. assessor, forty-three thousand three hundred
3 one dollars (\$43, 301);

4 D. sheriff, forty-five thousand one hundred forty-
5 one dollars (\$45, 141);

6 [~~E. county clerk, forty-three thousand three~~
7 ~~hundred one dollars (\$43, 301);~~

8 ~~F.] E. probate judge, fifteen thousand one hundred
9 forty-one dollars (\$15, 141); and~~

10 [~~G.] F. county surveyor, a reasonable rate of
11 compensation as determined by the board of county
12 commi ssi oners. "~~

13 Section 5. Section 4-44-5 NMSA 1978 (being Laws 1957,
14 Chapter 196, Section 3, as amended) is amended to read:

15 "4-44-5. CLASS B COUNTIES--SALARIES.--The annual
16 salaries of elected officers of class B counties with an
17 assessed valuation of over seventy-five million dollars
18 (\$75,000,000) but under three hundred million dollars
19 (\$300,000,000) shall not exceed:

20 A. county commissioners, twelve thousand three
21 hundred eleven dollars (\$12,311) each;

22 B. treasurer, thirty-seven thousand seventy-five
23 dollars (\$37,075);

24 C. county assessor, thirty-seven thousand seventy-
25 five dollars (\$37,075);

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1 D. county sheriff, thirty-eight thousand seven
2 hundred seventy-three dollars (\$38, 773);

3 [~~E. county clerk, thirty-seven thousand seventy-~~
4 ~~five dollars (\$37, 075);~~

5 ~~F.] E. probate judge, eight thousand six hundred
6 thirty-two dollars (\$8, 632); and~~

7 [~~G.] F. county surveyor, a reasonable rate of
8 compensation as determined by the board of county
9 commissioners. "~~

10 Section 6. Section 4-44-6 NMSA 1978 (being Laws 1957,
11 Chapter 196, Section 4, as amended) is amended to read:

12 "4-44-6. CLASS C COUNTIES--SALARIES.--The annual
13 salaries of elected officers of class C counties shall not
14 exceed:

15 A. county commissioners, twelve thousand three
16 hundred eleven dollars (\$12, 311) each;

17 B. county treasurer, thirty-seven thousand
18 seventy-five dollars (\$37, 075);

19 C. county assessor, thirty-seven thousand seventy-
20 five dollars (\$37, 075);

21 D. county sheriff, thirty-eight thousand seven
22 hundred seventy-three dollars (\$38, 773);

23 [~~E. county clerk, thirty-seven thousand seventy-~~
24 ~~five dollars (\$37, 075);~~

25 ~~F.] E. probate judge, eight thousand six hundred~~

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1 thirty-two dollars (\$8,632); and

2 [G.] F. county surveyor, a reasonable rate of
3 compensation as determined by the board of county
4 commissioners. "

5 Section 7. Section 4-44-7 NMSA 1978 (being Laws 1957,
6 Chapter 196, Section 5, as amended) is amended to read:

7 "4-44-7. FIRST CLASS COUNTIES--OVER TWENTY-SEVEN MILLION
8 DOLLARS VALUATION--SALARIES.--The annual salaries of elected
9 officers of counties of the first class with an assessed
10 valuation of over twenty-seven million dollars (\$27,000,000)
11 but under forty-five million dollars (\$45,000,000) shall not
12 exceed:

13 A. county commissioners, eleven thousand one
14 hundred seventy-nine dollars (\$11,179) each;

15 B. treasurer, twenty-seven thousand one hundred
16 seventy dollars (\$27,170);

17 C. assessor, twenty-seven thousand one hundred
18 seventy dollars (\$27,170);

19 D. sheriff, twenty-nine thousand two hundred
20 ninety-two dollars (\$29,292);

21 [~~E. county clerk, twenty-seven thousand one
22 hundred seventy dollars (\$27,170);~~

23 ~~F.] E. probate judge, seven thousand two hundred
24 seventeen dollars (\$7,217); and~~

25 [~~G.] F. county surveyor, a reasonable rate of~~

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1 compensation as determined by the board of county
2 commi ssi oners. "

3 Section 8. Section 4-44-8 NMSA 1978 (being Laws 1957,
4 Chapter 196, Section 6, as amended) is amended to read:

5 "4-44-8. FIRST CLASS COUNTIES--UNDER TWENTY-SEVEN
6 MILLION DOLLARS VALUATION--SALARIES.--The annual salaries of
7 elected officers of counties of the first class with an
8 assessed valuation of over fourteen million dollars
9 (\$14,000,000) but under twenty-seven million dollars
10 (\$27,000,000) shall not exceed:

11 A. county commissioners, seven thousand five
12 hundred dollars (\$7,500) each;

13 B. treasurer, twenty-three thousand sixty-six
14 dollars (\$23,066);

15 C. assessor, twenty-three thousand sixty-six
16 dollars (\$23,066);

17 D. sheriff, twenty-nine thousand two hundred
18 ninety-two dollars (\$29,292);

19 [~~E. county clerk, twenty-three thousand sixty-six~~
20 ~~dollars (\$23,066);~~];

21 ~~F.] E.~~ probate judge, six thousand six hundred
22 fifty dollars (\$6,650); and

23 [~~G.] F.~~ county surveyor, a reasonable rate of
24 compensation as determined by the board of county
25 commi ssi oners. "

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1 Section 9. Section 4-44-14 NMSA 1978 (being Laws 1955,
2 Chapter 4, Section 2, as amended) is amended to read:

3 "4-44-14. H CLASS COUNTIES--SALARIES AND EXPENSES. --

4 A. Officers elected or appointed in the counties
5 of the H class shall receive the following annual salaries:

6 (1) county commissioners, one dollar (\$1.00);

7 (2) treasurer, one dollar (\$1.00);

8 (3) assessor, one dollar (\$1.00);

9 (4) sheriff, one dollar (\$1.00);

10 [~~(5)~~ county clerk, one dollar (\$1.00);

11 ~~(6)~~] (5) probate judge, two thousand six
12 hundred fifty dollars (\$2,650); and

13 [~~(7)~~] (6) county surveyor, not to exceed ten
14 dollars (\$10.00) per day for each day actually employed under
15 orders by the board of county commissioners, such employment
16 not to exceed fifty days in any one year.

17 B. The elected H class county officials listed in
18 Subsection A of this section, except probate judge, in
19 addition to the salaries prescribed shall be entitled to
20 receive as per diem expense the sum of not more than fifteen
21 dollars (\$15.00) while in actual attendance at county
22 commission meetings or while engaged in the performance of
23 their official duties for the county. However, the total per
24 diem expense allowance for each elected H class county
25 official listed in Subsection A of this section shall not

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1 exceed three hundred fifty dollars (\$350) in any fiscal year.
2 Such per diem expense shall be in addition to any allowance
3 for sheriff's mileage or for other out-of-county expenses
4 allowed for all officials by law and shall be budgeted, paid
5 and audited as provided by laws governing expenditures of
6 county funds. "

7 Section 10. Section 4-44-15 NMSA 1978 (being Laws 1955,
8 Chapter 4, Section 4) is amended to read:

9 "4-44-15. H CLASS COUNTY--FEES--DISPOSITION. -- Any and
10 all fees now or hereafter allowed by statute or collected or
11 received by any of the officers enumerated in Section 4-44-14
12 NMSA 1978 or by the county clerk shall be covered into the
13 general fund of [~~such~~] the H class county and shall be
14 disbursed for public purposes under the supervision and
15 authority of the board of county commissioners of [~~said~~] that
16 county. "

17 Section 11. Section 4-44-36 NMSA 1978 (being Laws 1953,
18 Chapter 167, Section 1, as amended) is amended to read:

19 "4-44-36. ABOLISHMENT OF CERTAIN COUNTY OFFICES. -- Any
20 county of the third, fourth [~~and~~] or fifth class and H class
21 counties may abolish the offices of county assessor, [~~county~~
22 ~~clerk~~] county surveyor and county treasurer and transfer the
23 powers and duties of those offices to the board of county
24 commissioners in the manner [~~hereinafter~~] prescribed in
25 Sections 4-44-37 through 4-44-45 NMSA 1978. Any county may

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1 abolish the office of county surveyor and transfer the powers
2 and duties of that office to the board of county commissioners
3 in the manner [~~hereinafter~~] prescribed in those sections. "

4 Section 12. Section 4-44-40 NMSA 1978 (being Laws 1953,
5 Chapter 167, Section 5) is amended to read:

6 "4-44-40. ELECTION JUDGES AND CLERKS--FORM OF BALLOT. --

7 At [~~such~~] an election held [~~hereunder~~] pursuant to Chapter 4,
8 Article 44 NMSA 1978, there shall be three [~~(3)~~] election
9 judges and two [~~(2)~~] election clerks for each polling place.

10 Ballots shall be printed and furnished by the board of county
11 commissioners, which ballots shall read as follows:

12 Shall the offices of county assessor, [~~county~~
13 ~~clerk~~] county surveyor and county treasurer be
14 abolished and the powers and duties of such
15 officers be transferred to the board of county
16 commissioners?

17 YES _____

18 NO _____."

19 Section 13. Section 4-44-44 NMSA 1978 (being Laws 1953,
20 Chapter 167, Section 11) is amended to read:

21 "4-44-44. PETITION FOR RESTORATION OF OFFICES--

22 ELECTION. --

23 [~~(a)~~] A. Whenever any county has abolished the
24 offices of county assessor, [~~county clerk~~] county surveyor and
25 county treasurer and transferred the powers and duties of

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1 [such] those offices to the board of county commissioners as
2 [herein] provided in Chapter 4, Article 44 NMSA 1978, a
3 petition may be filed with the board of county commissioners
4 of [such] that county requesting that an election be held to
5 determine whether the county offices previously abolished are
6 to be reestablished and the powers and duties previously
7 transferred to the board of county commissioners are to be
8 returned to the offices from which they were transferred.
9 [Such] The petition shall be signed by at least ten [~~10~~]
10 percent of the registered electors of the county.

11 [~~(b)~~] B. Except as provided in this [paragraph
12 ~~(b)~~] subsection upon the filing of the petition provided for
13 in this section, the provisions of Sections [~~3, 4, 5, 6, 7 and~~
14 ~~8 of this Act~~] 4-44-38 through 4-44-43 NMSA 1978 shall be
15 applicable. Ballots for an election to reestablish county
16 offices previously abolished and to return to [such] those
17 offices the powers and duties previously transferred from
18 [such] the offices shall read as follows:

19 Shall the offices of county assessor, [county
20 ~~clerk~~] county surveyor and county treasurer be
21 reestablished and the powers and duties of [such]
22 those offices previously transferred to the board of
23 county commissioners be returned to the offices from
24 which they were transferred?

25 YES _____

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NO _____.

If a majority of those voting on the above question [~~have~~]
has voted "Yes", [~~such~~] the offices shall be reestablished
as of January [~~1st~~] 1 of the next odd-numbered year, and
upon [~~such~~] that date all powers and duties previously
transferred from [~~such~~] the offices shall be returned to
the office from which they had been previously
transferred. "

Section 14. REPEAL. -- Section 4-44-13 NMSA 1978 (being
Laws 1957, Chapter 196, Section 12, as amended) is
repealed.

Section 15. CONTINGENT EFFECTIVE DATE. -- The effective
date of the provisions of this act is the January 1 after
the people have adopted a constitutional amendment entitled
"PROPOSING AN AMENDMENT TO THE CONSTITUTION OF NEW MEXICO
TO ABOLISH THE ELECTED POSITION OF COUNTY CLERK. "