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SENATE BILL 889

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

John T. L. Grubestic

AN ACT

RELATING TO COUNTIES; ELIMINATING THE ELECTED POSITION OF  
COUNTY SURVEYOR; AMENDING AND REPEALING SECTIONS OF THE NMSA  
1978.

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

Section 1. Section 1-10-8 NMSA 1978 (being Laws 1977,  
Chapter 222, Section 31, as amended) is amended to read:

"1-10-8. BALLOTS--PRIMARY AND GENERAL ELECTIONS--ORDER OF  
OFFICES.--The ballot used in the primary and general elections  
shall contain, when applicable, the offices to be voted on in  
the following order:

- A. president and vice president;
- B. United States senator;
- C. United States representative;
- D. candidates for state offices to be voted on at

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1 large, in order prescribed by the secretary of state;  
2 E. state senator;  
3 F. state representative;  
4 G. other district candidates, in the order  
5 prescribed by the secretary of state;  
6 H. metropolitan and magistrate judges;  
7 I. county commissioners;  
8 J. county clerk;  
9 K. county treasurer;  
10 L. county assessor;  
11 M. county sheriff;  
12 N. probate judge;  
13 [~~0. county surveyor, if applicable~~] and  
14 [~~P.~~] O. other issues as prescribed by the secretary  
15 of state."

16 Section 2. Section 4-35-1 NMSA 1978 (being Laws 1912,  
17 Chapter 45, Section 1, as amended) is amended to read:

18 "4-35-1. [~~COUNTY~~] BOUNDARIES--DISPUTE--[~~PROCEDURE~~]  
19 COMMISSION TO SETTLE.--[~~Sec. 113. That~~] Whenever the location  
20 of the boundary line between two or more counties is in  
21 dispute, [~~such~~] the controversy shall be settled by a boundary  
22 commission consisting of the [~~chairman~~] chair of the board of  
23 county commissioners and [~~county surveyor~~] a licensed  
24 professional surveyor appointed by the board of county  
25 commissioners of each of the counties affected by [~~such~~] the

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1 dispute and the district attorney of the district in which  
2 [~~such~~] the counties are situate. If such counties are in more  
3 than one judicial district, the district attorney of each  
4 district shall be a member of [~~such~~] the commission."

5 Section 3. Section 4-42-1 NMSA 1978 (being Laws 1891,  
6 Chapter 33, Section 1, as amended) is amended to read:

7 "4-42-1. COUNTY SURVEYOR [~~ELECTION--QUALIFICATIONS~~].--The  
8 elected office of county surveyor is [~~created in the several~~  
9 ~~counties. No person is eligible to hold the office who is not~~  
10 ~~a practical land surveyor actually engaged in the business. A~~  
11 ~~county surveyor shall be elected for each county in the same~~  
12 ~~manner that other county officers are elected, and he shall~~  
13 ~~hold his office for the term of two years and until his~~  
14 ~~successor is elected and qualified. His term of office shall~~  
15 ~~commence on January 1 succeeding his election] abolished."~~

16 Section 4. Section 4-42-15 NMSA 1978 (being Laws 1912,  
17 Chapter 34, Section 1, as amended) is amended to read:

18 "4-42-15. COUNTY SURVEYS.--The board of county  
19 commissioners is authorized to have the lands of the county, or  
20 any portion thereof, surveyed by [~~the county surveyor, another~~  
21 ~~surveyor deputized by him or any] a licensed land surveyor  
22 under the direction and in accordance with the instructions of  
23 the board of county commissioners. The board of county  
24 commissioners is authorized to purchase from any licensed  
25 professional surveyor [~~who may have made under the supervision~~~~

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1 ~~of the county surveyor any~~] a survey and the related plats,  
2 maps and field notes [~~thereof~~] with payment to be made from the  
3 county general fund."

4 Section 5. Section 4-44-4 NMSA 1978 (being Laws 1957,  
5 Chapter 196, Section 2, as amended) is amended to read:

6 "4-44-4. CLASS A COUNTIES--SALARIES.--The annual salaries  
7 of elected officers of class A counties shall not exceed:

8 A. county commissioners, twenty-nine thousand five  
9 hundred sixty nine dollars (\$29,569) each;

10 B. treasurer, sixty-five thousand five hundred one  
11 dollars (\$65,501);

12 C. assessor, sixty-five thousand five hundred one  
13 dollars (\$65,501);

14 D. sheriff, sixty-eight thousand three hundred  
15 eight dollars (\$68,308);

16 E. county clerk, sixty-five thousand five hundred  
17 one dollars (\$65,501); and

18 F. probate judge, twenty-eight thousand eight  
19 hundred twenty dollars (\$28,820) [~~and~~

20 ~~G. county surveyor, twenty-two thousand three  
21 hundred fifty-eight dollars (\$22,358)]."~~

22 Section 6. Section 4-44-4.1 NMSA 1978 (being Laws 1986,  
23 Chapter 67, Section 2, as amended) is amended to read:

24 "4-44-4.1. CLASS B COUNTIES--OVER THREE HUNDRED MILLION  
25 DOLLARS (\$300,000,000) VALUATION--SALARIES.--The annual

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1 salaries of elected officers of class B counties with an  
2 assessed valuation of over three hundred million dollars  
3 (\$300,000,000) shall not exceed:

4 A. county commissioners, twenty-two thousand eight  
5 hundred thirty-two dollars (\$22,832) each;

6 B. treasurer, fifty-seven thousand two hundred  
7 sixty-five dollars (\$57,265);

8 C. assessor, fifty-seven thousand two hundred  
9 sixty-five dollars (\$57,265);

10 D. sheriff, fifty-nine thousand six hundred ninety-  
11 nine dollars (\$59,699);

12 E. county clerk, fifty-seven thousand two hundred  
13 sixty-five dollars (\$57,265); and

14 F. probate judge, twenty thousand twenty-four  
15 dollars (\$20,024) [~~and~~

16 ~~G. county surveyor, a reasonable rate of~~  
17 ~~compensation as determined by the board of county~~  
18 ~~commissioners]."~~

19 Section 7. Section 4-44-5 NMSA 1978 (being Laws 1957,  
20 Chapter 196, Section 3, as amended) is amended to read:

21 "4-44-5. CLASS B COUNTIES--SALARIES.--The annual salaries  
22 of elected officers of class B counties with an assessed  
23 valuation of over seventy-five million dollars (\$75,000,000)  
24 but under three hundred million dollars (\$300,000,000) shall  
25 not exceed:

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1           A. county commissioners, sixteen thousand two  
2 hundred eighty-two dollars (\$16,282) each;

3           B. treasurer, forty-nine thousand thirty-one  
4 dollars (\$49,031);

5           C. county assessor, forty-nine thousand thirty-one  
6 dollars (\$49,031);

7           D. county sheriff, fifty-one thousand two hundred  
8 seventy-seven dollars (\$51,277);

9           E. county clerk, forty-nine thousand thirty-one  
10 dollars (\$49,031); and

11           F. probate judge, eleven thousand four hundred  
12 sixteen dollars (\$11,416) [and

13           ~~G. county surveyor, a reasonable rate of~~  
14 ~~compensation as determined by the board of county~~  
15 ~~commissioners]."~~

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

18           "4-44-6. CLASS C COUNTIES--SALARIES.--The annual salaries  
19 of elected officers of class C counties shall not exceed:

20           A. county commissioners, sixteen thousand two  
21 hundred eighty-two dollars (\$16,282) each;

22           B. county treasurer, forty-nine thousand thirty-one  
23 dollars (\$49,031);

24           C. county assessor, forty-nine thousand thirty-one  
25 dollars (\$49,031);

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1           D. county sheriff, fifty-one thousand two hundred  
2 seventy-seven dollars (\$51,277);

3           E. county clerk, forty-nine thousand thirty-one  
4 dollars (\$49,031); and

5           F. probate judge, eleven thousand four hundred  
6 sixteen dollars (\$11,416) [~~and~~

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

10           Section 9. Section 4-44-7 NMSA 1978 (being Laws 1957,  
11 Chapter 196, Section 5, as amended) is amended to read:

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

18           A. county commissioners, fourteen thousand seven  
19 hundred eighty-four dollars (\$14,784) each;

20           B. treasurer, thirty-five thousand nine hundred  
21 thirty-three dollars (\$35,933);

22           C. assessor, thirty-five thousand nine hundred  
23 thirty-three dollars (\$35,933);

24           D. sheriff, thirty-eight thousand seven hundred  
25 thirty-nine dollars (\$38,739);

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1           E. county clerk, thirty-five thousand nine hundred  
2 thirty-three dollars (\$35,933); and

3           F. probate judge, nine thousand five hundred forty-  
4 five dollars (\$9,545) [~~and~~

5           ~~G. county surveyor, a reasonable rate of~~  
6 ~~compensation as determined by the board of county~~  
7 ~~commissioners]."~~

8           Section 10. Section 4-44-8 NMSA 1978 (being Laws 1957,  
9 Chapter 196, Section 6, as amended) is amended to read:

10           "4-44-8. FIRST CLASS COUNTIES--UNDER TWENTY-SEVEN MILLION  
11 DOLLARS (\$27,000,000) VALUATION--SALARIES.--The annual salaries  
12 of elected officers of counties of the first class with an  
13 assessed valuation of over fourteen million dollars  
14 (\$14,000,000) but under twenty-seven million dollars  
15 (\$27,000,000) shall not exceed:

16           A. county commissioners, nine thousand nine hundred  
17 nineteen dollars (\$9,919) each;

18           B. treasurer, thirty thousand five hundred five  
19 dollars (\$30,505);

20           C. assessor, thirty thousand five hundred five  
21 dollars (\$30,505);

22           D. sheriff, thirty-eight thousand seven hundred  
23 thirty-nine dollars (\$38,739);

24           E. county clerk, thirty thousand five hundred five  
25 dollars (\$30,505); and

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1 F. probate judge, eight thousand seven hundred  
2 ninety-five dollars (\$8,795) [~~and~~

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

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

8 "4-44-36. ABOLISHMENT OF CERTAIN COUNTY OFFICES.--Any  
9 county of the third, fourth [~~and~~] or fifth class and H class  
10 counties may abolish the offices of county assessor, county  
11 clerk [~~county surveyor~~] and county treasurer and transfer the  
12 powers and duties of those offices to the board of county  
13 commissioners in the manner [~~hereinafter~~] prescribed [~~Any~~  
14 ~~county may abolish the office of county surveyor and transfer~~  
15 ~~the powers and duties of that office to the board of county~~  
16 ~~commissioners in the manner hereinafter prescribed]~~ in Sections  
17 4-44-37 through 4-44-45 NMSA 1978."

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

20 "4-44-40. ELECTION JUDGES AND CLERKS--FORM OF BALLOT--At  
21 [~~such~~] an election held [~~hereunder~~] pursuant to Chapter 4,  
22 Article 44 NMSA 1978, there shall be three [~~(3)~~] election  
23 judges and two [~~(2)~~] election clerks for each polling place.  
24 Ballots shall be printed and furnished by the board of county  
25 commissioners, which ballots shall read as follows:

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1           A. As used in this section, "county officer" means  
2 county commissioner, county assessor, county clerk, county  
3 sheriff, ~~[county surveyor]~~ county treasurer, probate judge,  
4 county flood commissioner and small claims court clerk.

5           B. Before assuming the duties of ~~[his]~~ office, each  
6 county officer shall take and subscribe the oath of office  
7 prescribed by the constitution of New Mexico and give an  
8 official bond payable to the state and conditioned for the  
9 faithful performance of ~~[his]~~ duties, during ~~[his]~~ the county  
10 officer's term of office and until ~~[his]~~ a successor is elected  
11 or appointed and is qualified, and that ~~[he will]~~ the county  
12 officer shall pay all money received in ~~[his]~~ the county  
13 officer's official capacity to the person entitled to receive  
14 it. The bond shall be executed by a corporate surety company  
15 authorized to do business in this state. The amount of the  
16 bond required shall be fixed by the board of county  
17 commissioners in a sum equal to twenty percent of the public  
18 money handled by the county officer during the preceding fiscal  
19 year but not to exceed:

20	county commissioner	- - - - -	\$ 5,000
21	county assessor	- - - - -	5,000
22	county clerk	- - - - -	10,000
23	county sheriff	- - - - -	20,000
24	<del>[county surveyor</del>	<del>- - - - -</del>	<del>5,000]</del>
25	county treasurer	- - - - -	50,000

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1           probate judge - - - - - 5,000  
2           county flood commissioner - - - - - 10,000  
3           small claims court clerk - - - - - 10,000.

4           C. Each county officer shall appoint a deputy or  
5 clerk, as allowed by law, who shall take the oath of office  
6 required of the appointing county officer and shall receive  
7 salary as provided by law. In case of the death of the  
8 appointing county officer, the deputy shall continue in office  
9 and perform the duties of the county officer until a new county  
10 officer is appointed and qualified as required by law.

11           D. The cost of official bonds for county officers  
12 shall be paid from the county general fund, and the board of  
13 county commissioners may elect to provide a schedule or blanket  
14 corporate surety bond covering county officers and employees  
15 for any period of time not exceeding four years.

16           E. If any county officer fails to give bond by  
17 January 10 following [~~his~~] the county officer's election or  
18 within ten days of [~~his~~] appointment, the board of county  
19 commissioners shall declare the office vacant."

20           Section 15. Section 61-23-28 NMSA 1978 (being Laws 1987,  
21 Chapter 336, Section 28, as amended) is amended to read:

22           "61-23-28. REFERENCE MARKS--REMOVAL OR OBLITERATION--  
23 REPLACEMENT.--When it becomes necessary by reason of the  
24 construction of public or private works to remove or obliterate  
25 any triangulation station, benchmark, corner, monument, stake,  
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1 witness mark or other reference mark, it shall be the duty of  
2 the person in charge of the work to cause to be established by  
3 a licensed surveyor one or more permanent reference marks,  
4 which shall be plainly marked as witness corners or reference  
5 marks as near as practicable to the original mark and to record  
6 a map, field notes or both with the county clerk [~~and county~~  
7 ~~surveyor~~] of the county wherein located, showing clearly the  
8 position of the marks established with reference to the  
9 position of the original mark. The surveys or measurements  
10 made to connect the reference marks with the original mark  
11 shall be of at least the same order of precision as the  
12 original survey."

13 Section 16. Section 67-3-26 NMSA 1978 (being Laws 1917,  
14 Chapter 38, Section 7, as amended) is amended to read:

15 "67-3-26. DUTIES OF SECRETARY--DISBURSEMENT OF STATE ROAD  
16 FUND.--The secretary shall have charge of all records of the  
17 state transportation commission; shall keep a record of all  
18 proceedings and orders pertaining to the business of [~~his~~] the  
19 secretary's office and of the state transportation commission;  
20 and shall keep on file copies of all plans, specifications and  
21 estimates prepared by [~~his~~] the secretary's office. [~~He~~] The  
22 secretary shall cause to be made and kept in [~~his~~] the  
23 secretary's office a general highway plan of the state. [~~He~~]  
24 The secretary shall prepare or cause to be prepared or call  
25 upon [~~the county surveyor or~~] the county highway superintendent

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1 to furnish a map showing all of the main highways of the  
2 several counties of the state and shall, under the direction of  
3 the state transportation commission, select and designate the  
4 highways that should comprise a system of state roads, which  
5 shall, as nearly as practicable, be such as will best serve the  
6 traffic needs and develop the resources of the state. Upon its  
7 adoption by the state transportation commission, the system of  
8 state roads so designated shall be improved as soon thereafter  
9 as practicable under the provisions of Chapter 67 NMSA 1978 and  
10 such other provisions as the legislature may enact therefor.

11 The system of state roads so designated may be changed or added  
12 to from time to time by the secretary subject to the approval  
13 of the state transportation commission. The secretary shall  
14 collect information with reference to the mileage, character  
15 and condition of the highways and bridges in the several  
16 counties of the state and shall investigate and determine the  
17 methods of road construction and maintenance best adapted to  
18 the various sections of the state, having due regard to  
19 topography, natural conditions, the availability of road  
20 building materials, the prevailing traffic conditions and the  
21 ability of the counties to meet the cost of building and  
22 maintaining roads and bridges therein. ~~[He]~~ The secretary may,  
23 at all reasonable times, be consulted by county and other  
24 officials having authority over highways and bridges relative  
25 to any question affecting such highways and bridges and ~~[he]~~

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1 may in like manner call on county road officials [~~and county~~  
2 ~~surveyors~~] for any information or maps relative to the  
3 location, character and condition of the highways and bridges  
4 within their jurisdiction or control. Any such official who  
5 fails to supply such information when so called upon is guilty  
6 of a misdemeanor and upon conviction thereof shall be subject  
7 to a fine of not less than ten dollars (\$10.00) nor more than  
8 one hundred dollars (\$100). [~~He~~] The secretary shall determine  
9 the character of and have supervision over the construction,  
10 repair and maintenance of all state roads and bridges improved  
11 under the provisions of Chapter 67 NMSA 1978 and shall prepare  
12 or approve all plans and specifications and estimates therefor.  
13 [~~He~~] The secretary shall report the proceedings of [~~his~~] the  
14 secretary's office annually to the state transportation  
15 commission at such time as it may designate. All money in the  
16 state road fund shall be expended only upon itemized vouchers  
17 approved by the secretary, filed with the department of finance  
18 and administration, and warrants drawn by the secretary of  
19 finance and administration upon the state treasurer."

20 Section 17. Section 67-5-12 NMSA 1978 (being Laws 1905,  
21 Chapter 124, Section 10, as amended) is amended to read:

22 "67-5-12. LAYING OUT ROAD--ASSESSMENT FOR DAMAGES--  
23 SURVEY.--[~~Sec. 37.~~] The viewers shall meet at the time and  
24 place specified in the warrant and commence at the place  
25 designated in [~~said~~] the petition as the starting point of the

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1 road sought to be altered, widened, changed or laid out and  
2 established. The [~~said~~] viewers shall proceed to view and mark  
3 out the [~~same~~] road by setting stakes, blazing trees, turning a  
4 furrow or other appropriate monuments to the terminus named in  
5 the petition by the most practicable and convenient route that  
6 they in their judgment can find. They shall assess the  
7 benefits and damages accruing to all persons by reason of the  
8 alteration, widening, changing or laying out of [~~such~~] the road  
9 and award to any person damages in excess of the benefits  
10 accruing to [~~him or them~~] the person a sum equal to such  
11 excess. [~~And~~] If the viewers or a majority of them [~~be~~] are of  
12 the opinion that the road should be altered, widened, changed  
13 or laid out and established, they shall cause a survey and plat  
14 of the same to be made by [~~the county~~] a licensed professional  
15 surveyor or other competent person giving the courses and  
16 distances and specifying the land over which the road extends."

17 Section 18. REPEAL.--Sections 4-42-2 through 4-42-14  
18 NMSA 1978 (being Laws 1891, Chapter 33, Sections 3 through 13,  
19 15 and 16, as amended) are repealed.

20 Section 19. EFFECTIVE DATE.--The effective date of the  
21 provisions of this act is July 1, 2007.