

1 SENATE BILL 434

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

4 Joseph Cervantes

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10 AN ACT

11 RELATING TO PUBLIC OFFICERS; AMENDING SECTIONS OF THE NMSA 1978
12 TO PROVIDE FOR TRAINING OF MUNICIPAL ELECTED OFFICERS BY THE
13 DEPARTMENT OF FINANCE AND ADMINISTRATION; PROVIDING FOR
14 SUSPENSION OF AN ELECTED MUNICIPAL OFFICER BY THE SECRETARY OF
15 FINANCE AND ADMINISTRATION FOR FAILURE TO COMPLETE TRAINING.

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

20 "3-10-2. OFFICERS--OATH AND BOND--FAILURE TO QUALIFY.--

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

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1 B. For the care and disposition of municipal funds
2 in the employee's custody and for the faithful discharge of the
3 employee's duties, the governing body of the municipality shall
4 require a corporate surety bond from the treasurer, the police
5 officer and any other employee it designates. In lieu of
6 individual corporate surety bonds, the governing body may
7 secure a blanket corporate surety bond. The municipality shall
8 pay for the surety bond.

9 C. An officer elected or appointed to an elective
10 municipal office shall, within six months of being elected or
11 appointed, successfully complete a training course that is
12 approved by the department of finance and administration.

13 [~~G.~~] D. The governing body of any municipality may
14 declare vacated the office of any person who fails, within ten
15 days after [~~he~~] the person has been notified of [~~his~~] the
16 person's election or appointment to office, to take the oath of
17 office or to give bond when required.

18 E. The secretary of finance and administration may
19 summarily suspend an elected official of a municipality who
20 fails to meet the requirements of Subsection C of this section.
21 Upon a showing by the suspended elected official that the
22 official has met the requirements of Subsection C of this
23 section, the secretary of finance and administration shall
24 reinstate that official."

25 SECTION 2. Section 10-1-13 NMSA 1978 (being Laws 1967,

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1 Chapter 238, Section 1, as amended) is amended to read:

2 "10-1-13. COUNTY OFFICERS--OATH--BOND.--

3 A. As used in this section, "county officer" means
4 county commissioner, county assessor, county clerk, county
5 sheriff, county treasurer, probate judge, county flood
6 commissioner and small claims court clerk.

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

23	county commissioner - - - - -	\$ 5,000
24	county assessor - - - - -	5,000
25	county clerk - - - - -	10,000

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1	county sheriff	- - - - -	20,000
2	county treasurer	- - - - -	50,000
3	probate judge	- - - - -	5,000
4	county flood commissioner	- - - - -	10,000
5	small claims court clerk	- - - - -	10,000.

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

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

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

22 SECTION 3. Section 10-4-2 NMSA 1978 (being Laws 1909,
23 Chapter 36, Section 2, as amended) is amended to read:

24 "10-4-2. REMOVAL--CAUSES OF.--[~~Sec. 6.~~] The following
25 shall be causes for removal of any officer belonging to the

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1 class mentioned in [~~the preceding~~] Section 10-4-1 NMSA 1978:

2 [1] A. conviction of any felony or of any
3 misdemeanor involving moral turpitude;

4 [2] B. failure, neglect or refusal to discharge the
5 duties of the office or failure, neglect or refusal to
6 discharge any duty devolving upon the officer by virtue of
7 [~~his~~] the office;

8 [3] C. knowingly demanding or receiving illegal
9 fees as such officer;

10 [4] D. failure to account for money coming into
11 [~~his~~] the officer's hands as such officer;

12 [5] E. gross incompetency or gross negligence in
13 discharging the duties of the office;

14 F. failure to attend training required pursuant to
15 Subsection C of Section 3-10-2 NMSA 1978 within one year of
16 being elected or appointed; or

17 [6] G. any other act [~~or acts which~~] that in the
18 opinion of the court or jury [~~amount~~] amounts to corruption in
19 office or gross immorality rendering the incumbent unfit to
20 fill the office."