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SENATE BILL 244

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Gerald Ortiz y Pino and Miguel P. Garcia

AN ACT

RELATING TO LEGAL SERVICES; ESTABLISHING A PROGRAM TO INCREASE
LEGAL SERVICES FOR ACEQUIAS, LAND GRANTS-MERCEDES AND LOW-
INCOME RESIDENTS OF COLONIAS; ESTABLISHING A WAIVER OF TUITION
FOR SERVICE PROGRAM; CREATING A FUND; CREATING A COMMISSION.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
cited as the "Community Governance Attorney Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Community Governance Attorney Act:

- A. "acequia" means a political subdivision
organized pursuant to Chapter 73, Article 2 or 3 NMSA 1978;
- B. "colonia" means a community as defined in the
Colonias Infrastructure Act;
- C. "commission" means the community governance

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1 attorney commission;

2 D. "community governance attorney" means an
3 attorney with a legal practice that is focused on the
4 requirements and challenges faced by small political
5 subdivisions and unincorporated communities, including the
6 promulgation of land and water use ordinances, contracting and
7 the collection or payment of taxes and fees;

8 E. "course of study" means a law student's legal
9 education, including clinical and internship programs and
10 preparation courses for the state bar examination;

11 F. "department" means the higher education
12 department;

13 G. "fund" means the community governance attorney
14 and conditional tuition waiver fund;

15 H. "land grant-merced" means a political
16 subdivision organized pursuant to Chapter 49, Article 1 or 4
17 NMSA 1978;

18 I. "participant" means an individual who has
19 applied to participate in, has been accepted into and has
20 signed a contract agreeing to the terms of the program;

21 J. "program" means the community governance
22 attorney and conditional tuition waiver program;

23 K. "secretary" means the secretary of higher
24 education;

25 L. "university" means the university of New Mexico

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1 school of law; and

2 M. "waiver" means a loan to cover tuition, fees and
3 a reasonable living stipend that is forgiven in whole or in
4 part if the participant renders service as a community
5 governance attorney.

6 SECTION 3. [NEW MATERIAL] COMMUNITY GOVERNANCE ATTORNEY
7 AND CONDITIONAL TUITION WAIVER PROGRAM CREATED--
8 ADMINISTRATION--RULEMAKING SELECTION PROCESS--REPAYMENT.--

9 A. The "community governance attorney and
10 conditional tuition waiver program" is created and shall be
11 administered by the department. The department shall:

12 (1) promulgate rules for implementing the
13 program and for a reasonable living stipend in consultation
14 with the university; provided that the maximum living stipend
15 shall be based upon the availability of funds and information
16 provided by the university regarding the current cost of
17 attendance at the university;

18 (2) publicize the program to law students and
19 to prospective law students;

20 (3) collect and manage repayment from students
21 who do not meet their obligations under the program; and

22 (4) solicit and accept funds for the program,
23 including grants and donations.

24 B. Participants shall enter the program in their
25 final year of law school. The department shall select

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1 participants according to rules it promulgates and, in
2 consultation with the commission, shall create a standard
3 process for law students to apply to participate in the
4 program.

5 C. The department shall award no more than two new
6 waivers a year, in addition to renewing existing waivers for
7 eligible participants, subject to the availability of funding.

8 D. Participation in the program shall be evidenced
9 by a contract between the participant and the department. The
10 contract shall provide for the payment of a participant's
11 waiver and shall be conditioned upon the participant fulfilling
12 the program obligations and meeting the university's standards
13 for satisfactory academic progress. An applicant to the
14 program shall sign the contract prior to being accepted into
15 the program.

16 E. The contract shall include the following terms
17 for repayment of the waiver:

18 (1) interest shall accrue upon termination of
19 the participant's course of study at the following interest
20 rates:

21 (a) eighteen percent per year if the
22 participant completes a course of study and no portion of the
23 principal and interest is forgiven pursuant to Subsection F of
24 this section; and

25 (b) seven percent per year in all other

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1 cases; and

2 (2) the maximum period for repayment shall be
3 ten years, commencing six months from the date the participant
4 completes or discontinues the course of study.

5 F. The contract shall provide that the department
6 forgive fifty percent of a waiver for each year that a
7 participant is employed full time as a community governance
8 attorney with a salary of not more than fifty thousand dollars
9 (\$50,000) per year.

10 SECTION 4. [NEW MATERIAL] COMMISSION--DUTIES.--

11 A. The "community governance attorney commission"
12 is created. The commission shall be composed of five members
13 as follows:

14 (1) the secretary or the secretary's designee;

15 (2) the dean of the university or the dean's
16 designee; and

17 (3) three members appointed by the governor;
18 provided that one member shall be a member of an acequia, one
19 member shall be a current or past member of the land grant
20 council and one member shall be a current or past member of the
21 colonias infrastructure board and a resident of a colonia.

22 B. Staff and meeting space for the commission shall
23 be provided by the university. The commission shall elect a
24 chair and such other officers as it deems appropriate and shall
25 meet at the call of the chair. Members of the commission shall

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1 receive per diem and mileage pursuant to the Per Diem and
2 Mileage Act and shall receive no other compensation.

3 C. The commission shall:

4 (1) make recommendations to the department on
5 applicants for the program;

6 (2) advise the department on the adoption of
7 rules to implement the provisions of the Community Governance
8 Attorney Act;

9 (3) pursuant to the Procurement Code, solicit
10 proposals for disbursement from the fund for legal services;

11 (4) enter into contracts for expenditure of
12 the fund for the purpose of providing community governance
13 attorney services for acequias, land grants-mercedes and low-
14 income residents of colonias on issues regarding the governance
15 of colonias. The contracts shall be entered into with the
16 university or with nonprofit organizations whose mission is to
17 provide a range of free legal services to low-income New
18 Mexicans. No contract shall provide funding in excess of one-
19 half of a full-time community governance attorney position, and
20 each contract shall be executed only with service providers
21 that have secured sufficient matching nonstate funding to
22 provide a full-time position; and

23 (5) adopt such rules as are necessary to carry
24 out the provisions of this section.

25 D. The department, pursuant to rules of the

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1 commission, shall administer the contracts and programs
2 provided for in this section.

3 SECTION 5. [NEW MATERIAL] FUND CREATED--DISBURSEMENT.--

4 A. The "community governance attorney and
5 conditional tuition waiver fund" is created in the state
6 treasury. The fund shall consist of money appropriated,
7 donated or otherwise accruing to the fund. All payments for
8 repayment of waivers and penalties shall be credited to the
9 fund. Balances in the fund shall not revert to any other fund
10 at the end of a fiscal year.

11 B. Expenditures from the fund shall only be used to
12 make waivers to participants in the program, to pay contracts
13 for community governance attorney services and to pay the
14 administrative expenses associated with the program and
15 collection activity on its behalf; provided that no more than
16 five percent of the annual expenditures from the fund shall be
17 for administrative costs. The department shall require an
18 annual accounting from each organization receiving funds
19 pursuant to this section.

20 C. All waiver loan payments shall be by warrant
21 drawn by the secretary upon vouchers signed by the designated
22 representative of the department. All disbursements from the
23 fund for community governance attorney services shall be by
24 warrant drawn by the secretary of finance and administration
25 pursuant to vouchers signed by the secretary of higher

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1 education or the secretary's designee. Money in the fund is
2 subject to appropriation by the legislature to the department
3 for the purposes of carrying out the provisions of the
4 Community Governance Attorney Act.

5 D. Money disbursed pursuant to this section shall
6 not be used by a recipient to:

7 (1) support lobbying, as defined in the
8 Lobbyist Regulation Act; or

9 (2) bring suit against the state.

10 SECTION 6. EFFECTIVE DATE.--The effective date of the
11 provisions of this act is July 1, 2019.