

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.



HOUSE BILL 18-1140

BY REPRESENTATIVE(S) McKean, Arndt, Hooton, Thurlow, Coleman, Gray, Neville P., Reyher, Rosenthal;
also SENATOR(S) Moreno, Martinez Humenik, Tate, Zenzinger.

CONCERNING PUBLIC OFFICIAL PERSONAL SURETY BONDS, AND, IN CONNECTION THEREWITH, REPEALING OBSOLETE PROVISIONS AND AUTHORIZING THE PURCHASE OF INSURANCE IN LIEU OF PUBLIC OFFICIAL PERSONAL SURETY BONDS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly finds that:

(a) Many state and local elected or appointed public officials must by statute provide some type of personal surety bond;

(b) Public official personal surety bond provisions are not consistent with each other;

(c) Many public official personal surety bond requirements are obsolete;

Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(d) Allowing a public entity to purchase crime insurance as a substitute for a public official personal surety bond will better protect the public entity and its constituents; and

(e) There should be a clear and consistent option to purchase insurance in lieu of a public official personal surety bond.

(2) Now, therefore, the general assembly determines and declares that it is in the public interest to remove outdated personal surety bond requirements and establish a consistent alternative to public official personal surety bonds.

SECTION 2. In Colorado Revised Statutes, **repeal** 24-2-104 as follows:

~~**24-2-104. Bonds.** The head of each principal department or any subordinate officer or employee under the same who may be required to handle state funds shall give bond executed by a responsible surety company, authorized to do business within the state, in such sum as may be fixed by law or, in the absence of any such law, such as shall be fixed by the governor as he deems adequate to safeguard the state funds. All such bonds shall be conditioned upon the faithful performance by such head of department, officer, or employee of his duties and, when approved by the governor, shall be filed in the office of the secretary of state. The premiums on all such bonds shall be paid as an ordinary expense of the principal department or the division, section, or unit under the department to which such head of department, officers, or employees are appointed, and due appropriation therefor shall be made by the general assembly.~~

SECTION 3. In Colorado Revised Statutes, **repeal** 24-13-122 as follows:

~~**24-13-122. Freeholders only acceptable as surety.** No individual shall be accepted as a surety on any official bond of any county officer unless he is a freeholder of the county in which said officer may be elected or appointed to office.~~

SECTION 4. In Colorado Revised Statutes, **repeal** 24-13-123 as follows:

~~24-13-123. Statement of surety - contents. Boards of county commissioners, in their respective counties, at any time, whether before or after the approval of the official bond of any county officer, may require any one or more of the sureties on said bond, within six days after the service upon him of a notice in writing to that effect, to make out, subscribe, and deposit in the office of the county clerk and recorder of such county a statement in writing, verified by his affidavit, containing a list of all property owned by said surety in the state of Colorado, its character, in what county situate, its estimated value, and encumbrances thereon, if any, and also the aggregate amount of indebtedness then owing by him or by any other person for the payment of which he was then liable as surety; and any such surety making a false oath or affirmation in such case is guilty of perjury in the second degree and is liable to indictment and prosecution therefor.~~

SECTION 5. In Colorado Revised Statutes, **amend** 24-13-124 as follows:

~~24-13-124. Approval or rejection of bonds.~~ Nothing in this section or sections ~~24-13-122 and 24-13-123~~ shall be construed to abridge, limit, or restrict the powers vested by law in boards of county commissioners to approve or reject, in their discretion, the bonds of county officers in their respective counties, to accept or refuse any surety offered thereon, and to require a new bond to be given in any case when they may deem the bond of any county officer insufficient from any cause for the public security.

SECTION 6. In Colorado Revised Statutes, **amend** 24-14-102 as follows:

24-14-102. Authorize purchase of liability insurance and crime insurance in lieu of a public official personal surety bond - definitions.
(1) The head of a department of the state of Colorado, with the approval of the governor or, in the case of the county or city and county, the chief executive officer or board of county commissioners, subject to appropriations being available therefor, is hereby authorized to procure insurance, through the department of personnel as provided in the "Procurement Code", articles 101 to 112 of this ~~title~~ TITLE 24, for the purpose of insuring its officers, employees, and agents against any liability, other than a liability ~~which~~ THAT may be insured against under ~~the provisions of the~~ "Workers' Compensation Act of Colorado", ARTICLES 40

TO 47 OF TITLE 8, for injuries or damages resulting from their negligence or other tortious conduct during the course of their service or employment. Counties or cities and counties are authorized to insure their officers, employees, and agents against similar liabilities.

(2) (a) WHENEVER A PERSON IS REQUIRED BY LAW TO PROVIDE OR PURCHASE A PERSONAL SURETY BOND AS A CONDITION OF SERVING IN A PUBLIC ELECTED, APPOINTED, OR EMPLOYED POSITION, THE PUBLIC ENTITY FOR WHICH THE PERSON WILL SERVE MAY, IN LIEU OF THE REQUIRED BOND, PURCHASE CRIME INSURANCE TO PROTECT THE PUBLIC ENTITY FROM ANY DISHONESTY, THEFT, OR FRAUD BY THE PERSON. HOWEVER, THIS SECTION DOES NOT APPLY TO THE BOND REQUIRED OF THE STATE TREASURER PURSUANT TO SECTION 24-22-101.

(b) IF A PUBLIC ENTITY PURCHASES CRIME INSURANCE IN LIEU OF A PERSONAL SURETY BOND PURSUANT TO THIS SUBSECTION (2), THE PUBLIC OFFICIAL OR EMPLOYEE IS RELIEVED OF ALL STATUTORY REQUIREMENTS RELATED TO THE PERSONAL SURETY BOND, INCLUDING REQUIREMENTS AS TO THE TYPE, PROVIDER, FORM, AMOUNT, OR FILING OF THE PERSONAL SURETY BOND. THE PUBLIC ENTITY IS LIKEWISE RELIEVED OF ANY STATUTORY REQUIREMENTS RELATED TO THE PERSONAL SURETY BOND OF THE PUBLIC OFFICIAL OR EMPLOYEE.

(c) CRIME INSURANCE PURCHASED PURSUANT TO THIS SUBSECTION (2) MUST BE PURCHASED FROM AN INSURANCE PROVIDER LICENSED IN THE STATE OF COLORADO. THE PUBLIC ENTITY SHALL PAY THE PREMIUMS FOR THE INSURANCE.

(d) AS USED IN THIS SUBSECTION (2), UNLESS THE CONTEXT OTHERWISE REQUIRES:

(I) "CRIME INSURANCE" MEANS A FORM OF INSURANCE TO PROTECT PUBLIC ASSETS FROM LOSS DUE TO DISHONESTY, THEFT, OR FRAUD BY A PUBLIC OFFICIAL.

(II) "PERSONAL SURETY BOND" MEANS A BOND, SURETY, SURETY BOND, SURETY COMPANY BOND, CORPORATE SURETY BOND, CORPORATE FIDELITY BOND, INDIVIDUAL BOND, SCHEDULE BOND, BLANKET BOND, OR OFFICIAL BOND.

(III) "PUBLIC ENTITY" MEANS THE STATE OF COLORADO, PRINCIPAL DEPARTMENTS LISTED IN SECTION 24-1-110, PUBLIC COLLEGES AND UNIVERSITIES, STATE OR LOCAL COMMISSIONS, STATE OR LOCAL AUTHORITIES, COUNTIES, CITIES, CITIES AND COUNTIES, TOWNS, MUNICIPALITIES, DISTRICTS, SPECIAL DISTRICTS, BOARDS, AND SCHOOL DISTRICTS.

SECTION 7. In Colorado Revised Statutes, **amend** 31-4-304 as follows:

31-4-304. Appointment of officers - compensation. The board of trustees shall appoint a clerk, treasurer, and town attorney, or shall provide by ordinance for the election of such officers, and may appoint such other officers, including a town administrator, as it deems necessary for the good government of the corporation, and it shall prescribe by ordinance their duties when the same are not defined by law and the compensation or fees they are entitled to receive for their services. The board of trustees may require of them an oath of office. ~~and a bond, with surety, for the faithful discharge of their duties.~~ The election of officers shall be at the regular election, and no appointment of any officer shall continue beyond thirty days after compliance with section 31-4-401 by the members of the succeeding board of trustees.

SECTION 8. In Colorado Revised Statutes, 31-4-401, **amend** (2) as follows:

31-4-401. Oath of officers - declaring office vacant. (2) ~~The governing body of any city or town may require, from the treasurer and such other officers as it determines proper, a bond, with proper penalty and surety, for the care and disposition of municipal funds in their hands and the faithful discharge of the duties of their offices. Such~~ THE governing body has the power to declare vacant the office of ~~any~~ A person appointed or elected to ~~any~~ AN office who fails to take the oath of office ~~or give bond~~ when required within ten days after ~~he~~ THE PERSON has been notified of ~~his~~ THE appointment or election, and ~~it~~ THE GOVERNING BODY shall proceed to appoint ~~his~~ THE PERSON'S successor as in other cases of vacancy.

SECTION 9. In Colorado Revised Statutes, 31-25-815, **amend** (1)(a) as follows:

31-25-815. Employees - duties - compensation. (1) The board shall employ and fix the compensation, subject to the approval of the governing body, of the following, who shall serve at the pleasure of the board:

(a) A director, who shall be a person of good moral character and possessed of a reputation for integrity, responsibility, and business ability. No member of the board shall be eligible to hold the position of director. Before entering upon the duties of ~~his~~ THE office, the director shall take and subscribe to the oath of office. ~~and furnish a bond as required by the board.~~ ~~He~~ THE DIRECTOR shall be the chief executive officer of the authority. Subject to the approval of the board and directed by it when necessary, ~~he~~ THE DIRECTOR shall have general supervision over and be responsible for the preparation of plans and the performance of the functions of the authority in the manner authorized by this part 8. ~~He~~ THE DIRECTOR shall attend all meetings of the board and shall render to the board and to the governing body a regular report covering the activities and financial condition of the authority. In the absence or disability of the director, the board may designate a qualified person to perform the duties of the office as acting director. The director shall furnish the board with such information or reports governing the operation of the authority as the board may from time to time require.

SECTION 10. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018

and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Crisanta Duran
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Kevin J. Grantham
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Effie Ameen
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO