

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

DRAFT
11.6.17

BILL (1)(a)

LLS NO. 18-0160.01 Kip Kolkmeier x4510

COMMITTEE BILL

Statutory Revision Committee

BILL TOPIC: "Public Official Personal Surety Bonds"
DEADLINES: Finalize by: JAN 29, 2018 File by: JAN 31, 2018

A BILL FOR AN ACT

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

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Statutory Revision Committee. Section 1 of the bill contains a legislative declaration. **Section 2** repeals an obsolete provision regarding personal surety bonds for executive agency personnel. **Sections 3**

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

through 5 repeal obsolete requirements that a person providing a personal surety bond to a county officer be a property owner in the county and, if requested, provide a statement of assets. **Section 6** authorizes a public entity to purchase insurance in lieu of a public official personal surety bond and states the requirements for the insurance. **Sections 7 through 9** remove obsolete personal surety bond requirements for certain municipal officials.

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

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

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

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

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

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

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

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

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

21 **24-2-104. Bonds.** ~~The head of each principal department or any~~
22 ~~subordinate officer or employee under the same who may be required to~~

1 ~~handle state funds shall give bond executed by a responsible surety~~
2 ~~company, authorized to do business within the state, in such sum as may~~
3 ~~be fixed by law or, in the absence of any such law, such as shall be fixed~~
4 ~~by the governor as he deems adequate to safeguard the state funds. All~~
5 ~~such bonds shall be conditioned upon the faithful performance by such~~
6 ~~head of department, officer, or employee of his duties and, when~~
7 ~~approved by the governor, shall be filed in the office of the secretary of~~
8 ~~state. The premiums on all such bonds shall be paid as an ordinary~~
9 ~~expense of the principal department or the division, section, or unit under~~
10 ~~the department to which such head of department, officers, or employees~~
11 ~~are appointed, and due appropriation therefor shall be made by the~~
12 ~~general assembly.~~

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

15 **24-13-122. Freeholders only acceptable as surety.** ~~No~~
16 ~~individual shall be accepted as a surety on any official bond of any county~~
17 ~~officer unless he is a freeholder of the county in which said officer may~~
18 ~~be elected or appointed to office.~~

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

21 **24-13-123. Statement of surety - contents.** ~~Boards of county~~
22 ~~commissioners, in their respective counties, at any time, whether before~~
23 ~~or after the approval of the official bond of any county officer, may~~
24 ~~require any one or more of the sureties on said bond, within six days after~~
25 ~~the service upon him of a notice in writing to that effect, to make out,~~
26 ~~subscribe, and deposit in the office of the county clerk and recorder of~~
27 ~~such county a statement in writing, verified by his affidavit, containing a~~

1 ~~list of all property owned by said surety in the state of Colorado, its~~
2 ~~character, in what county situate, its estimated value, and encumbrances~~
3 ~~thereon, if any, and also the aggregate amount of indebtedness then owing~~
4 ~~by him or by any other person for the payment of which he was then~~
5 ~~liable as surety, and any such surety making a false oath or affirmation in~~
6 ~~such case is guilty of perjury in the second degree and is liable to~~
7 ~~indictment and prosecution therefor.~~

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

10 **24-13-124. Approval or rejection of bonds.** Nothing in this
11 section ~~or sections 24-13-122 and 24-13-123~~ shall be construed to
12 abridge, limit, or restrict the powers vested by law in boards of county
13 commissioners to approve or reject, in their discretion, the bonds of
14 county officers in their respective counties, to accept or refuse any surety
15 offered thereon, and to require a new bond to be given in any case when
16 they may deem the bond of any county officer insufficient from any cause
17 for the public security.

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

20 **24-14-102. Authorize purchase of liability insurance and crime**
21 **insurance in lieu of a public official personal surety bond -**
22 **definitions.** (1) The head of a department of the state of Colorado, with
23 the approval of the governor or, in the case of the county or city and
24 county, the chief executive officer or board of county commissioners,
25 subject to appropriations being available therefor, is hereby authorized to
26 procure insurance, through the department of personnel as provided in the
27 "Procurement Code", articles 101 to 112 of this ~~title~~ TITLE 24, for the

1 purpose of insuring its officers, employees, and agents against any
2 liability, other than a liability ~~which~~ THAT may be insured against under
3 ~~the provisions of~~ the "Workers' Compensation Act of Colorado",
4 ARTICLES 40 THROUGH 47 OF TITLE 8, for injuries or damages resulting
5 from their negligence or other tortious conduct during the course of their
6 service or employment. Counties or cities and counties are authorized to
7 insure their officers, employees, and agents against similar liabilities.

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

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

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

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

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

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

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

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

18 **31-4-304. Appointment of officers - compensation.** The board
19 of trustees shall appoint a clerk, treasurer, and town attorney, or shall
20 provide by ordinance for the election of such officers, and may appoint
21 such other officers, including a town administrator, as it deems necessary
22 for the good government of the corporation, and it shall prescribe by
23 ordinance their duties when the same are not defined by law and the
24 compensation or fees they are entitled to receive for their services. The
25 board of trustees may require of them an oath of office. ~~and a bond, with~~
26 ~~surety, for the faithful discharge of their duties.~~ The election of officers
27 shall be at the regular election, and no appointment of any officer shall

1 continue beyond thirty days after compliance with section 31-4-401 by
2 the members of the succeeding board of trustees.

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

5 **31-4-401. Oath of officers - declaring office vacant.** (2) ~~The~~
6 ~~governing body of any city or town may require, from the treasurer and~~
7 ~~such other officers as it determines proper, a bond, with proper penalty~~
8 ~~and surety, for the care and disposition of municipal funds in their hands~~
9 ~~and the faithful discharge of the duties of their offices. Such~~ THE
10 governing body has the power to declare vacant the office of ~~any~~ A
11 person appointed or elected to ~~any~~ AN office who fails to take the oath of
12 office ~~or give bond~~ when required within ten days after ~~he~~ THE PERSON
13 has been notified of ~~his~~ THE appointment or election, and ~~it~~ THE
14 GOVERNING BODY shall proceed to appoint ~~his~~ THE PERSON'S successor
15 as in other cases of vacancy.

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

18 **31-25-815. Employees - duties - compensation.** (1) The board
19 shall employ and fix the compensation, subject to the approval of the
20 governing body, of the following, who shall serve at the pleasure of the
21 board:

22 (a) A director, who shall be a person of good moral character and
23 possessed of a reputation for integrity, responsibility, and business
24 ability. No member of the board shall be eligible to hold the position of
25 director. Before entering upon the duties of ~~his~~ THE office, the director
26 shall take and subscribe to the oath of office. ~~and furnish a bond as~~
27 ~~required by the board.~~ He THE DIRECTOR shall be the chief executive

1 officer of the authority. Subject to the approval of the board and directed
2 by it when necessary, ~~he~~ THE DIRECTOR shall have general supervision
3 over and be responsible for the preparation of plans and the performance
4 of the functions of the authority in the manner authorized by this part 8.
5 ~~He~~ THE DIRECTOR shall attend all meetings of the board and shall render
6 to the board and to the governing body a regular report covering the
7 activities and financial condition of the authority. In the absence or
8 disability of the director, the board may designate a qualified person to
9 perform the duties of the office as acting director. The director shall
10 furnish the board with such information or reports governing the
11 operation of the authority as the board may from time to time require.

12 **SECTION 10. Act subject to petition - effective date.** This act
13 takes effect at 12:01 a.m. on the day following the expiration of the
14 ninety-day period after final adjournment of the general assembly (August
15 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
16 referendum petition is filed pursuant to section 1 (3) of article V of the
17 state constitution against this act or an item, section, or part of this act
18 within such period, then the act, item, section, or part will not take effect
19 unless approved by the people at the general election to be held in
20 November 2019 and, in such case, will take effect on the date of the
21 official declaration of the vote thereon by the governor.