

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 18-0160.01 Kip Kolkmeier x4510

HOUSE BILL 18-1140

HOUSE SPONSORSHIP

McKean, Arndt, Hooton, Thurlow

SENATE SPONSORSHIP

Moreno, Martinez Humenik, Tate, Zenzinger

House Committees
State, Veterans, & Military Affairs

Senate Committees

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

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
2nd Reading Unamended
February 13, 2018

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 TO 47 OF TITLE 8, for injuries or damages resulting from their
5 negligence or other tortious conduct during the course of their service or
6 employment. Counties or cities and counties are authorized to insure their
7 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.

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.

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

1 continue beyond thirty days after compliance with section 31-4-401 by the
2 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~~ 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 person
11 appointed or elected to ~~any~~ AN office who fails to take the oath of office
12 ~~or give bond~~ when required within ten days after ~~he~~ THE PERSON has been
13 notified of ~~his~~ THE appointment or election, and ~~it~~ THE GOVERNING BODY
14 shall proceed to appoint ~~his~~ THE PERSON'S successor as in other cases of
15 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 ability.
24 No member of the board shall be eligible to hold the position of director.
25 Before entering upon the duties of ~~his~~ THE office, the director shall take
26 and subscribe to the oath of office. ~~and furnish a bond as required by the~~
27 ~~board.~~ ~~He~~ THE DIRECTOR shall be the chief executive officer of the

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