



**VALENCIA COUNTY  
BOARD OF COUNTY COMMISSIONERS  
RESOLUTION Nº 2020- 062**

**OPPOSING CERTAIN PROPOSALS BEFORE THE NEW MEXICO CIVIL RIGHTS  
COMMISSION AND REQUESTING THAT ANY LEGISLATOR WHO WILL PROFIT FROM  
THE LEGISLATION RECUSE THEMSELVES FROM THE VOTE**

**WHEREAS**, the Board of County Commissioners met at a duly noticed and advertised meeting on November 4, 2020 at 5:00 PM in the Valencia County Administration Building located at 444 Luna Avenue, Los Lunas, New Mexico 87031; and,

**WHEREAS**, NMSA 1978, Section 4-37-1 (1995) provides that Counties have the power to, “provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of any county or its inhabitants”; and,

**WHEREAS**, NMSA, 1978, Section 4-38-18 (1976) provides that a Board of County Commissioner has the duty and authority “[t]o represent the county;” and,

**WHEREAS**, the New Mexico Civil Rights Commission was established by the New Mexico Legislature in response to certain high-profile civil rights violations in other states in a hastily called legislative session, not open to the public, called for the limited purposes of addressing the COVID-19 pandemic ; and

**WHEREAS**, among the proposals presented to the New Mexico Civil Rights Commission is the establishment of a new state law cause of action which would be filed in state court and would not be subject to removal to federal court; and

**WHEREAS**, among the proposals presented are the elimination of the defense of qualified immunity to governmental employees and entities against whom claims are made; and

**WHEREAS**, based upon the research presented by New Mexico Counties and others, only a small percentage of civil rights claims are actually dismissed as a result of the application of the defense of qualified immunity; and.

**WHEREAS**, local governmental entities primarily provide law enforcement and detention services to its local citizens and are already responsible for claims of civil rights violations made against those entities; and.

**WHEREAS**, at least one neighboring state has also proposed to establish a \$25,000 personal liability on any officer or employee found liable for violation of civil rights; and.

**WHEREAS**, this imposition of personal, non-indemnified liability will have a chilling effect on the abilities of New Mexico law enforcement and detention facilities to hire law enforcement officers and detention officers; and.

**WHEREAS**, all brokers and insurers who have appeared before the Commission, as well as brokers and insurance carriers working with Valencia County, have indicated that such a change would likely result in loss of reinsurance for counties who are members of the New Mexico County Insurance Authority pool.

**WHEREAS**, loss of reinsurance would immediately reduce the amount of coverage available to pay law enforcement claims against county defendants in the pool; and,

**WHEREAS**, the loss of coverage could financially cripple Valencia County and result in a reduction of essential services and/or property tax assessments in the event that there is a judgment that exceed the reduced coverage amount; and,

**WHEREAS**, the proposed legislation will be a windfall for insurance brokers and plaintiff's attorneys, including 19 legislators, that may benefit from insurance sales or attorneys that may benefit from the legislative proposal to have their fees paid by the taxpayers; and,

**WHEREAS**, the Government Conduct Act disqualifies public officers from engaging in official acts the affect their financial interests, *see* NMSA 1978, Section 10-16-4 (2011); and,

**NOW, THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of Valencia County, New Mexico, that:

1. Valencia County opposes any effort to expand state court jurisdiction for civil rights violations. Such expansion serves no purpose other than to create the potential for inconsistent results thereby making it more difficult for law enforcement officers to know if actions are permissible or impermissible and will result in increased costs.
2. Valencia County opposes the suggestion that the defense of qualified immunity should not apply to any civil rights action brought in state court.
3. Valencia County opposes any effort to impose additional personal liability on individual government officials or employees, as such conduct would likely have a chilling effect on all governmental entities to recruit, hire, and maintain critical public safety and other employees.
4. Valencia County demands that any legislator who will financially benefit from the qualified immunity proposal recuse themselves from the vote or that insurance broker or attorney members of the legislature pledge neither they nor their firm(s) will ever sell

insurance policies to cover the liability created or accept attorney fees required to be paid by the legislation.

**BOARD OF COUNTY COMMISSIONERS**

**PASSED, AND APPROVED AND ADOPTED THIS 4<sup>th</sup> DAY OF NOVEMBER 2020.**



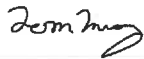
---

Jhonathan Aragon  
Chair, District V



---

Gerard Saiz  
Vice-Chair, District I



---

Tom Mraz  
Commissioner, District II



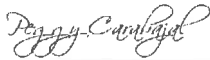
---

David A. Hyder  
Commissioner, District III

---

Charles D. Eaton  
Commissioner, District IV

Attest:



---

Peggy Carabajal, County Clerk