

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the Legislature. LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

FISCAL IMPACT REPORT

SPONSOR <u>McQueen</u>	LAST UPDATED _____
	ORIGINAL DATE <u>2/1/2024</u>
SHORT TITLE <u>State Game Commission Changes</u>	BILL NUMBER <u>House Bill 23</u>
	ANALYST <u>Gaussoin</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	No fiscal impact	No fiscal impact			

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Relates to House Bills 147 and 178.

Sources of Information

LFC Files

Agency Analysis Received From
 New Mexico Attorney General (NMAG)
 Department of Game and Fish (DGF)
 Energy, Minerals and Natural Resources Department (EMNRD)

SUMMARY

Synopsis of House Bill 23

House Bill 23 (HB23) would change the way state game commissioners are appointed by giving the Legislative Council authority to appoint four of the seven members. Currently, all seven members are appointed by the governor with the consent of the Senate, with five members representing regions of the state and two serving at large.

Under HB23, the governor would appoint three members with no more than two from the same county or from the same political party. The Legislative Council would appoint four, all from different counties and no more than two from the same political party. Of those four:

- One must be the owner or manager of a farm or ranch on which at least two species of game animals are frequently present,
- One must be a conservationist who in the previous four years served as an employee or board or advisory committee member for a conservation group that is not focused on game species,
- One must be a hunter or angler who has had a hunting or fishing license for the previous four years, and

- One must have a master’s degree in wildlife biology, conservation biology, fisheries science or management, wildlife science or management, or a comparable wildlife field.

All seven members must be confirmed by the Senate and will serve no more than two six-year terms. Any commissioner missing three consecutive meetings will be considered to have vacated the position. Commissioners cannot be removed without cause and a position would be considered vacant when the commissioner leaves the position, not—as under current law—when a replacement is appointed.

The bill places some restrictions on commission candidates who change political parties and makes the director of the Outdoor Recreation Division of the Economic Development Department, or the director’s designee, an advisory member of the commission.

The effective date of this bill is January 1, 2025.

FISCAL IMPLICATIONS

The bill would reorganize an existing body and is unlikely to have a fiscal impact.

SIGNIFICANT ISSUES

The seven-member commission has struggled to conduct business over the last few years, with too few members to constitute a quorum for several months in 2022. The commission met just four times in 2023, compared with 11 in 2022 and seven in 2021. Further, hunting and fishing conservation groups have criticized the makeup of the panel for failing to adequately represent conservation interests, although one of the new appointees is a wildlife biologist.

The Department of Game and Fish expresses concerns the legislative appointment of members to the commission is an infringement of the executive’s authority over management of agencies:

Separation of powers as expressed in the United States Constitution and importantly in the New Mexico Constitution (Article 3, Section 1) is well settled law. The Legislature has the authority to create laws and delegate authorities, but it is the power of the executive to implement and manage these laws. The bill, by ceding majority appointment authority to the Legislature, creates a scenario in which the power to create law and then manage its implementation is held only by the legislative branch in clear violation of the principle of separation of powers.

PERFORMANCE IMPLICATIONS

HB23 might improve the performance of the State Game Commission by ensuring it has sufficient to conduct business.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB23 is a duplicate of House Bill 147 and substantively the same as House Bill 178, as introduced. It is identical to House Bill 184 from the 2023 legislative session. That bill was vetoed through the governor’s inaction following the legislative session.

TECHNICAL ISSUES

The New Mexico Attorney General raises concerns with the bill's restriction on candidates who switch political parties:

Disqualifying a person who changed political party affiliation within the past four years, with a limited exception for a temporary change, from serving as a commissioner may impermissibly infringe on political speech and associational rights. Also, the exception to the disqualification requires an examination of the reason for the change. This will present implementation challenges because the bill does not specify who or how the reason for changing political parties will be determined.

HG/rl/cf/ss/al