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FISCAL IMPACT REPORT

SPONSOR Martinez DATE TYPED 2/4/2004 HB HJR 10

SHORT TITLE Provision of PRC Powers & Duties By Law SB _____

ANALYST Garcia; Valenzuela

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
			\$32.0	Non-recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

- *Report of the Legislative Finance Committee to the Forty-sixth Legislature, First Session, January 2003 for Fiscal Year 2003 – 2004, pp. 390 – 401.*
- *Report to the Legislative Council from the Public Regulation Commission Subcommittee, in response to SENATE MEMORIAL 41, (2001 Legislative Session) December 2002.*

This Fiscal Impact Report excerpts directly from the above mentioned reports.

Responses Received From
Public Regulation Commission

SUMMARY

Synopsis of Bill

House Joint Resolution 10 would amend the New Mexico Constitution by giving the Legislature the express authority to provide in law the powers and duties of the Public Regulation Commission. Amendments to the Constitution require voter approval.

Significant Issues

The Public Regulation Commission (PRC) has a complex mix of policy-making, regulatory, judicial and administrative responsibilities for diverse industries essential to the economic health and future of New Mexico. In 2001, Senate Joint Memorial 41 passed the 2001 Legislature and

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requested the Legislative Council designate an interim committee to examine the organization, financing and performance of the Public Regulation Commission. The Legislative Council appointed the PRC subcommittee to meet during the 2001 and 2002 interim to address these issues.

The Public Regulation Commission (PRC) was created through a merger of the elected State Corporation Commission and the appointed Public Utility Commission. Despite this significant change, the public policy and regulatory issues involved in such a merger were never fully debated by the Legislature or the public. A specific recommendation of this subcommittee was to define the scope of the PRC authority “as provided by law”, and thus allow the Legislature to be responsive to the need for changes in the future without requiring an amendment to New Mexico’s Constitution. (emphasis added)

According to the PRC Subcommittee, these joint resolutions will allow the Legislature to be responsive to the need for changes in the future without always requiring a constitutional amendment and to focus the PRC authority on utility and telecommunications regulation, which is another specific recommendation in the report.

This recommendation is also consistent with the 1995 Report of the Constitutional Revision Commission that discussed utilities and telecommunications regulation and stated:

“The existing separate constitutional article dealing in great detail with the organization and operation of the Corporation Commission is largely historical-typical of turn-of-the-century concerns... The primary function of the Corporation Commission today involves regulation of public utilities in the communications field. Because that field is so rapidly changing, the entity charged with regulating must be capable of change and adaptation as well, leading to the recommendation that the organization and structure of the regulatory authority be left to law, rather than fixed in the constitution... Furthermore, it is recommended that utility regulation be combined in one single entity”...and “that its non-utility functions be transferred to other departments.” (emphasis added)

A 1997 Report of the Regulation Commission Reorganization Committee also recommended a constitutional amendment “to define the functions of the commission to be those concerned with utility regulation, including telecommunications”. The minutes of the committee meetings included discussions on removing the non-regulatory functions of the commission from the Constitution to allow the Legislature to leave such duties with the commission, or to move them to other departments of state government. (emphasis added)

FISCAL IMPLICATIONS

The bill does not contain an appropriation. Enactment, however, would cost the Secretary of State \$32.0, a non-recurring cost, for advertising and printing to place an item on the ballot. This cost would be incurred in the FY05 budget.

OTHER SUBSTANTIVE ISSUES

Background to the PRC Merger. In 1996, Constitutional Amendment 6 passed and amended Article 11 of New Mexico’s Constitution. The State Corporation Commission and, by reference, the Public Utility Commission were abolished. The Public Regulation Commission (PRC) was created as a single regulatory agency for corporations, public utilities, transportation companies,

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transmission and pipeline companies, insurance companies and other public services as provided by law. The effective date for establishing the PRC was January 1, 1999.

In 1997, the Legislature passed the Public Regulation Commission Apportionment Act in preparation for the 1998 general election. The law apportioned the state into five public regulation commission districts. The elected commissioners serve staggered terms and are limited to two consecutive four-year terms.

Article 11 of the Constitution specifies the regulatory functions of the new commission. The Legislature, however, has the responsibility to provide by law how the regulation is addressed. Therefore, in May 1997, the Legislative Council created the Regulation Commission Reorganization Committee to study and make recommendations on the merger of the State Corporation and Public Utility commissions into the Public Regulation Commission. The committee held seven meetings during the 1997 interim and prepared a December 1997 report that included a number of recommendations for legislative action.

The 1998 Legislature passed the Public Regulation Commission Act, now codified as Section 8-8-1 to 8-8-21 NMSA 1978. The Insurance Division was created within the PRC under Section 59A-2-1 NMSA 1978. In the 2000 session, the Public Regulation Commission Act was amended to create the Telecommunications Bureau in the Utility Division of the PRC.

During the 2001 legislative session, five bills were introduced to review the responsibilities of the PRC. Senate Joint Memorial 41 passed and requested that the Legislative Council designate an interim committee to examine the organization, financing and performance of the PRC. The memorial addressed the PRC oversight and regulation of the following industries: insurance, transportation and utilities including telecommunications.

DG/njw