

election in 2014 and subsequent elections.

Synopsis of Senate Floor Amendment #1

The Senate Floor Amendment #1 expands the permissiveness of the requirements in the original bill regarding election or appointment of a commissioner of the Public Regulation Commission. The amended bill now also allows the election or appointment of a person with at least three years' experience as a head, deputy head, division director, or elected official of a state or local government department responsible for utilities, transportation, energy generation or development or management, or construction. Additionally, the amendment removes the imprecise term "senior" in reference to experience as a manager and replaces "private-sector" and "business" with "organization" in reference to an engineering organization.

The amendment imposes an additional requirement of at least 25 hours of annual continuing education relevant to the duties of a commissioner to the requirement in the original bill for ethics training.

Finally, the amendment includes a grandfather provision that provides the qualifications for office of commissioner contained in this bill do not apply to commissioners currently serving on the effective date of this act. The amendment clarifies, however, that the requirements for ethics courses and continuing education shall apply to all commissioners beginning in 2013.

Synopsis of Original Bill

The Senate Judiciary Committee substitute for Senate Rules Committee substitute for Senate Bill 8 requires that to be elected or appointed as a commissioner, a person must:

- 1) have at least three years' experience as a head, deputy head, or division director of a state or local government department responsible for utilities, transportation, or construction;
- 2) have at least five years' experience as a senior manager of a private-sector engineering business or a company regulated by the PRC or an advocacy group whose primary interest involves advocacy before the PRC or similar regulatory agency; or
- 3) be licensed in New Mexico as a professional engineer, certified accountant, or attorney.

A candidate for commissioner must certify by notarized affidavit that the candidate meets the qualifications. A person nominated by the governor to fill a vacancy must be confirmed by the Senate. A voter may challenge the candidacy of any person seeking nomination by filing a petition in district court. The bill specifies the timelines under which this may occur.

Every commissioner must complete an initial ethics certificate course and complete at least one two-hour ethics course annually.

SIGNIFICANT ISSUES

This bill implements the requirement of the New Mexico constitutional amendment approved in 2012 to increase the qualifications of PRC commissioners. The amendment was approved by over 535 thousand New Mexico voters -- a higher number that have ever voted in favor of a New

Mexico constitutional amendment.

There are five PRC commissioners who are elected from five districts that cover the state. They have the responsibilities for regulating:

- business corporations;
- public utilities, including electric, gas, and water companies;
- transportation companies, including common and contract companies;
- transmission and pipeline companies, including telephone, telegraph, and information transmission; and
- insurance companies and others engaged in risk assumptions.

The Fire Marshal is also under the direction of the PRC commissioners.

RELATIONSHIP, CONFLICT

This bill relates to and conflicts with HB 47 & 89/HJCS, which requires qualifying levels of education, experience, or a combination of the two. The professional experience requirements differ between the two bills. This bill also requires completion of an ethics course and 40 hours of continuing education each year, while HB 47 & 89/HJCS requires 80 hours of continuing education in the first year and 40 hours in subsequent years.

TECHNICAL ISSUES

The bill cleans up language relating to the commission, replacing references to “chairman” with “chair.”

OTHER SUBSTANTIVE ISSUES

Think New Mexico provided the following for the Legislature to consider when legislating increased educational and professional qualifications:

The New Mexico constitution establishes educational and professional qualifications for elected offices including the Attorney General, Supreme Court justices, appellate judges, and district court judges. Similar to these elected officials, PRC commissioners perform quasi-judicial duties. Among other legal duties, PRC commissioners are required to follow the rules of evidence in their hearings, avoid ex parte communications, and make their rulings by applying the relevant law to the evidence in the record.

JC/svb:blm