

HOUSE JOINT RESOLUTION 18

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

Carl Trujillo

A JOINT RESOLUTION

PROPOSING TO AMEND ARTICLE 11 OF THE CONSTITUTION OF NEW MEXICO BY REPEALING SECTION 1 AND ADDING A NEW SECTION 1 TO PROVIDE FOR THE TRANSITION FROM AN ELECTED TO AN APPOINTED FIVE-MEMBER FULL-TIME PUBLIC REGULATION COMMISSION AND TO PROVIDE AN APPOINTMENT PROCESS.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. It is proposed to amend Article 11 of the constitution of New Mexico by repealing Section 1 and adding a new Section 1 to read:

"A. The "public regulation commission" is created as a full-time commission of five members appointed by the governor from a list of names provided by the public regulation commission nominating committee. Members shall be residents of New Mexico; provided that when nominating or making an

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1 appointment, the nominating committee and governor shall
2 ensure, to the greatest extent practicable, that members
3 represent the ethnic diversity of the state. Commission
4 members shall be appointed to serve for staggered four-year
5 terms. A four-year term for a commission position shall begin
6 on January 1 of the year following the expiration of a prior
7 term for that position; provided that the first five members
8 appointed to a full four-year term on or after January 1, 2017
9 shall be appointed as the terms of members in office prior to
10 January 1, 2017 or elected to office at the 2016 general
11 election expire.

12 B. The nominating committee shall request
13 applications for membership on the public regulation commission
14 so that at the end of the transition period members shall be
15 appointed by the governor as follows:

16 (1) one member from each congressional
17 district; and

18 (2) two members from the state at large;
19 provided, however, that the first three members to be appointed
20 to terms that begin on or after January 1, 2019 shall be
21 appointed from congressional districts one and two and one from
22 the state at large and the next two members shall be appointed
23 from congressional district three and one from the state at
24 large; and provided further that if there are no applications
25 or qualified applicants from a congressional district, the

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1 nominating committee shall request applications from the state
2 at large and submit the names of qualified applicants to the
3 governor for appointment for the ensuing term.

4 C. A commission member who serves two consecutive
5 terms is ineligible to hold office as a member again until one
6 full term has intervened. No more than three members shall be
7 members of the same political party at the time of their
8 appointment. A person appointed to fill a vacancy on the
9 commission shall serve for the remainder of the unexpired term.

10 D. The legislature may provide by law for
11 additional qualifications for members appointed to a full term
12 on or after January 1, 2017. The legislature shall provide for
13 continuing education requirements for commission members.

14 E. A commission member shall be removed only for
15 malfeasance, misfeasance or neglect of duty after a hearing
16 before the supreme court pursuant to court rules. The
17 supreme court's jurisdiction over the hearing is exclusive and
18 its decision on the removal is final.

19 F. A commission member shall not accept anything of
20 value from a person whose charges for services to the public
21 are regulated by the commission.

22 G. The "public regulation commission nominating
23 committee" is created and is composed of:

24 (1) one person knowledgeable about the work of
25 the public regulation commission appointed by the speaker of

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1 the house of representatives;

2 (2) one person knowledgeable about the work of
3 the public regulation commission appointed by the minority
4 leader of the house of representatives;

5 (3) one person knowledgeable about the work of
6 the public regulation commission appointed by the president pro
7 tempore of the senate;

8 (4) one person knowledgeable about the work of
9 the public regulation commission appointed by the minority
10 leader of the senate; and

11 (5) three retired district or appellate judges
12 who have experience hearing complex civil cases or cases
13 involving utility rate-setting or other public regulation
14 commission appeals, appointed by the chief justice of the
15 supreme court.

16 H. The chief justice shall name one of the judges
17 or justices to serve as chairperson of the nominating
18 committee. The public regulation commission staff shall serve
19 as staff for the nominating committee.

20 I. Appointed members of the nominating committee
21 shall serve at the pleasure of the appointing authority. If a
22 vacancy occurs in an appointed position, the vacancy shall be
23 filled by appointment of the appointing authority.

24 J. The nominating committee shall actively solicit,
25 accept and evaluate applications from qualified persons for the

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1 position of member of the public regulation commission and may
2 require an applicant to submit any information it deems
3 relevant to the consideration of the application.

4 K. For an original appointment to or to fill a
5 vacancy on the public regulation commission, the nominating
6 committee shall meet within thirty days and within that period
7 submit to the governor the names of persons qualified to hold
8 office as a member of the public regulation commission and
9 recommended for appointment by a majority of the committee.
10 Immediately after receiving the nominating committee's
11 nominations, the governor may make one request of the committee
12 for submission of additional names, and the committee shall
13 promptly submit such additional names if a majority of the
14 committee finds that additional persons would be qualified and
15 recommends those persons for appointment to the public
16 regulation commission. The governor shall appoint a member or
17 a successor to fill the remainder of a vacancy on the
18 commission within thirty days after receiving final nominations
19 from the nominating committee by appointing one of the persons
20 nominated by the committee for appointment. If the governor
21 fails to make the appointment within that period or from those
22 nominations, the appointment shall be made from those
23 nominations by the chief justice or the acting chief justice of
24 the supreme court. Any person appointed to fill a vacancy
25 shall serve the remainder of the term for which the person was

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1 appointed."

2 SECTION 2. The amendment proposed by this resolution
3 shall be submitted to the people for their approval or
4 rejection at the next general election or at any special
5 election prior to that date that may be called for that
6 purpose.

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