

1 SENATE BILL 434

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 George K. Muñoz

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10 AN ACT

11 RELATING TO THE PUBLIC REGULATION COMMISSION; EXCLUDING CERTAIN
12 INTERNAL MATTERS FROM PUBLIC BUSINESS THAT MUST ADHERE TO THE
13 REQUIREMENTS OF THE OPEN MEETINGS ACT; ALLOWING ADVISORY STAFF
14 OF THE PUBLIC REGULATION COMMISSION TO DISCUSS PUBLIC BUSINESS
15 MATTERS AND PUBLIC POLICY ISSUES WITH AN INDIVIDUAL
16 COMMISSIONER; ALLOWING ADVISORY STAFF OF THE PUBLIC REGULATION
17 COMMISSION TO DISCUSS VIEWS OF INDIVIDUAL COMMISSIONERS WITHOUT
18 IT ESTABLISHING A QUORUM, WHILE REQUIRING THAT ANY FINAL ACTION
19 OR DECISION ON SUCH MATTERS BE MADE AT A PUBLIC MEETING.

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21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

22 SECTION 1. Section 62-19-9 NMSA 1978 (being Laws 1998,
23 Chapter 108, Section 4) is amended to read:

24 "62-19-9. COMMISSION--GENERAL POWERS AND DUTIES.--

25 A. The commission shall administer and enforce the

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1 laws with which it is charged and has every power conferred by
2 law.

3 B. The commission may:

4 (1) subject to legislative appropriation,
5 appoint and employ such professional, technical and clerical
6 assistance as it deems necessary to assist it in performing its
7 powers and duties;

8 (2) delegate authority to subordinates as it
9 deems necessary and appropriate, clearly delineating such
10 delegated authority and any limitations;

11 (3) retain competent attorneys to handle the
12 legal matters of the commission and give advice and counsel in
13 regard to any matter connected with the duties of the
14 commission and, in the discretion of the commission, to
15 represent the commission in any legal proceeding;

16 (4) organize into organizational units as
17 necessary to enable it to function most efficiently, subject to
18 provisions of law requiring or establishing specific
19 organizational units;

20 (5) take administrative action by issuing
21 orders not inconsistent with law to assure implementation of
22 and compliance with the provisions of law for which the
23 commission is responsible and to enforce those orders by
24 appropriate administrative action and court proceedings;

25 (6) conduct research and studies to improve

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1 the commission's operations or the provision of services to the
2 [~~citizens~~] residents of New Mexico;

3 (7) conduct investigations as necessary to
4 carry out the commission's responsibilities;

5 (8) apply for and accept grants and donations
6 in the name of the state to carry out its powers and duties;

7 (9) enter into contracts to carry out its
8 powers and duties;

9 (10) adopt such reasonable administrative,
10 regulatory and procedural rules as may be necessary or
11 appropriate to carry out its powers and duties;

12 (11) cooperate with tribal and pueblo
13 governments on topics over which the commission and the other
14 governments have jurisdiction and conduct joint investigations,
15 hold joint hearings and issue joint or concurrent orders as
16 appropriate; and

17 (12) apply to the district court for
18 injunctions to prevent violations of any laws that it
19 administers or rules or orders adopted pursuant to those laws.

20 C. The commission shall:

21 (1) prepare an annual budget for submission to
22 the legislature;

23 (2) provide for surety bond coverage for all
24 employees of the commission as provided in the Surety Bond Act
25 and pay the costs of such bonds;

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1 (3) adopt rules to streamline the resolution
2 of cases before it when appropriate by:

3 (a) the use of hearing examiners;

4 (b) the taking of evidence with the
5 least delay practicable;

6 (c) limiting repetitious testimony; and

7 (d) adopting procedures for resolving
8 cases in ways other than by trial-type hearings when
9 appropriate, including consent calendars, conferences,
10 settlements, mediation, arbitration and other alternative
11 dispute resolution methods and the use of staff decisions; and

12 (4) provide a toll-free telephone number and
13 publish it and the commission's general telephone number in
14 local telephone directories.

15 D. A majority of the commission constitutes a
16 quorum for the transaction of public business; provided,
17 however, that a majority vote of the commission is needed for a
18 final decision of the commission for matters involving public
19 business. The public business of the commission shall
20 constitute matters within the commission's principal statutory
21 or constitutional powers and duties, excluding the powers and
22 duties set forth in Paragraphs (1), (3), (4), (6) and (8) of
23 Subsection B of this section."

24 SECTION 2. Section 62-19-19 NMSA 1978 (being Laws 1998,
25 Chapter 108, Section 13) is amended to read:

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1 "62-19-19. ADVISORY STAFF.--

2 A. The chief of staff may hire, with the consent of
3 the commission, advisory staff with expertise in regulatory
4 law, engineering, economics and other professional or technical
5 disciplines to advise the commission on any matter before the
6 commission. The chief of staff may hire on a temporary, term
7 or contract basis such other experts or staff as the commission
8 requires for a particular case.

9 B. Advisory staff shall:

- 10 (1) analyze case records;
11 (2) analyze recommended decisions;
12 (3) advise the commission on policy issues;
13 (4) assist the commission in the development
14 of rules;
15 (5) assist the commission in writing final
16 orders; and
17 (6) perform such other duties as required by
18 the chief of staff.

19 C. Advisory staff may discuss public business
20 matters and public policy issues with an individual
21 commissioner as may be necessary to assist the commission in
22 performing its powers and duties. A discussion or series of
23 discussions between advisory staff and individual commissioners
24 concerning the views of individual commissioners shall not
25 establish a quorum. A final action or decision of the

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1 commission relating to public business or public policy shall
2 be made at a public meeting."

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