

LFC Requester: _____

**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

AgencyAnalysis.nmlegis.gov

{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original Amendment
Correction Substitute

Date 1/19/2024

Bill No: 178

Sponsor: Matthew McQueen Agency Name and Code: Dept. of game and Fish/516
Short Title: Reform State Game Commission Number: _____
Person Writing: Michael Sloane
Phone: 505/476-8000 Email: Michael.sloane@dgf.nm

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
NA	NA	NA	NA

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
NA	NA	NA	NA	NA

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NA	NA	NA	NA	NA	NA

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: HB 23
Duplicates/Relates to Appropriation in the General Appropriation Act: None

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

The bill proposes to change the method by which State Game Commissioners are appointed and the terms for which they are appointed. The bill proposes to split the appointment of members between the Governor and the Legislative Council with three members appointed by the Governor and four by the Legislative Council. The bill requires the Governor appoint three members with no more than one member residing in any one county and with no more than two members affiliated with the same political party. The bill requires that the Legislative Council appoint four members, one each from the following: the ranch or farming community, conservation community focused not on game species, hunting and fishing community, and a scientist with a master’s degree in biology, conservation biology, fisheries science or management or wildlife science management from an accredited college or university. No more than two of the commissioners appointed by the New Mexico legislative council shall be affiliated with the same political party. Within each of these positions, the bill establishes terms and the criteria for meeting these qualifications. Further, the bill specifies that the Director of the Outdoor Recreation Division of the Economic Development Department shall be an advisor to the Commission.

All appointments will receive the advice and consent of the Senate. The bill proposes a process to stagger the initial appointments and then makes all appointments for six (6) year terms. The bill further limits the membership to two (2) terms including any term shortened by an appointment to fill a vacancy. The bill allows for filling vacancies by the entity that originally appointed the member. The bill gives exclusive authority to the State Supreme Court for removal of a Commissioner for incompetence, neglect of duty or malfeasance in office.

Finally, the bill directs that no person shall be eligible for appointment if the person has changed party affiliation during the previous four years. An exception to this direction is given to a person changing party affiliation for the purpose of voting in a primary and immediately returning affiliation to the original affiliation.

FISCAL IMPLICATIONS

None at this time.

SIGNIFICANT ISSUES

The bill seeks to change the current system of appointment from one in which the Governor appoints all members of the State Game Commission based on five areas of the State and two at-large members, one representing agriculture and one representing wildlife and habitat protection interests, to a system which allows the Governor to appoint only three members and the Legislative Council to appoint four members based engagement in specific interest groups. This change represents a significant deviation from the method by which members have been appointed and gives majority control of the executive agency to those appointed by the legislative council.

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.

If a commissioner who is appointed by the legislative council is removed, the legislative council may have to convene a special meeting to appoint a new commissioner.

The removal clause is the same as is found in the State Constitution for members of an educational institution Board of Regents. The requirements for removal and for a hearing before the Supreme Court are significant. Other Boards and Commissions have different standards for removal including the Senate having original jurisdiction.

PERFORMANCE IMPLICATIONS

None at this time.

ADMINISTRATIVE IMPLICATIONS

None at this time.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None at this time.

TECHNICAL ISSUES

None at this time.

OTHER SUBSTANTIVE ISSUES

None at this time.

ALTERNATIVES

None at this time.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The State Game Commission would continue to be appointed by the Governor with the advice and consent of the Senate according to statutorily mandated areas of the State and representation of agriculture and wildlife interests.

AMENDMENTS