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SENATE BILL 947

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

William H. Payne

AN ACT

RELATING TO THE PUBLIC REGULATION COMMISSION; PROVIDING
STANDARDS FOR PROFESSIONAL STAFF.

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

Section 1. Section 8-8-4 NMSA 1978 (being Laws 1998,
Chapter 108, Section 4) is amended to read:

"8-8-4. COMMISSION--GENERAL POWERS AND DUTIES. --

A. The commission shall administer and enforce the
laws with which it is charged and has every power conferred by
law.

B. The commission may:

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

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

4 (3) retain competent attorneys, including a
5 general counsel who shall be hired solely on the person's
6 qualifications and fitness to perform the duties of the
7 position and who shall be removed only for cause, to handle the
8 legal matters of the commission and give advice and counsel in
9 regard to any matter connected with the duties of the
10 commission and, in the discretion of the commission, to
11 represent the commission in any legal proceeding;

12 (4) organize into organizational units as
13 necessary to enable it to function most efficiently, subject to
14 provisions of law requiring or establishing specific
15 organizational units;

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

21 (6) conduct research and studies to improve
22 the commission's operations or the provision of services to the
23 citizens of New Mexico;

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

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

3 (9) enter into contracts to carry out its
4 powers and duties;

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

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

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

16 C. The commission shall:

17 (1) prepare an annual budget for submission to
18 the legislature;

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

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

24 (a) the use of hearing examiners;

25 (b) the taking of evidence with the

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1 least delay practicable;

2 (c) limiting repetitious testimony; and

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

8 (4) provide a toll-free telephone number and
9 publish it and the commission's general telephone number in
10 local telephone directories.

11 D. A majority of the commission constitutes a
12 quorum for the transaction of business; provided, however, that
13 a majority vote of the commission is needed for a final
14 decision of the commission. "

15 Section 2. Section 8-8-5 NMSA 1978 (being Laws 1998,
16 Chapter 108, Section 5, as amended) is amended to read:

17 "8-8-5. CHIEF OF STAFF--DIVISION DIRECTORS--OTHER
18 STAFF. --

19 A. The commission shall appoint a "chief of staff"
20 who is responsible for the day-to-day operations of the
21 commission staff under the general direction of the commission.
22 The chief of staff shall ~~[serve at the pleasure of the~~
23 ~~commission]~~ have significant administrative, budgetary and
24 regulatory experience and expertise and shall be appointed
25 solely based on qualifications to perform the duties of the

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1 position and without reference to political party affiliation.

2 B. The chief of staff may be removed only for cause
3 by the commission.

4 [~~B.-~~] C. With the consent of the commission, the
5 chief of staff shall appoint division directors. The chief of
6 staff may remove a division director only for cause.

7 Appointments shall be made without reference to party
8 affiliation and solely on [~~the ground of fitness to perform the~~
9 ~~duties of their offices~~] qualifications to perform the duties
10 of the position.

11 [~~C.-~~] D. Each director, with the consent of the
12 chief of staff, shall employ such professional, technical and
13 support staff as necessary to carry out the duties of his
14 division. Employees shall be hired solely on the ground of
15 their fitness to perform the job for which they are hired.
16 Except as provided in Subsection [~~D~~] E of this section,
17 division staff are subject to the provisions of the Personnel
18 Act.

19 [~~D.-~~] E. With the consent of the chief of staff, the
20 superintendent of insurance may designate the following
21 insurance division positions as exempt from the provisions of
22 the Personnel Act: deputy superintendents, chief actuaries and
23 bureau chiefs. "