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FISCAL IMPACT REPORT

ORIGINAL DATE 02/03/12

SPONSOR Keller LAST UPDATED HB

SHORT TITLE Reorganize Public Regulation Commission SB 77

ANALYST Lucero

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Unknown	Unknown	Unknown	Recurring	General Fund
		Unknown	Unknown	Unknown	Recurring	Various Suspense Funds including Insurance and Fire Protection

(Parenthesis () Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From
Public Regulation Commission (PRC)

SUMMARY

Synopsis of Bill

Senate Bill 77 proposes a reorganization of the various divisions within the Public Regulation Commission (PRC).

The bill consolidates the seven statutorily authorized divisions into four divisions including:

1. Business Services
2. Insurance
3. Utility
4. Administrative Services

The Business Services division would include the corporation's bureau, transportation bureau and consolidates consumer relations and complaints, railroad safety enforcement, pipeline safety,

and ambulance standards functions within the division in addition to motor carrier regulation and enforcement.

The Insurance Division would include the Superintendent of Insurance to carry out the duties of the New Mexico Insurance Code and the Fire Marshal Bureau would include the firefighter training academy, fire service support section, fire investigations section and fire code enforcement section.

The Utility Division would include utility and telecommunication regulation.

The Administrative Services division would include the legal services for the commission and divisions and the regulatory component.

FISCAL IMPLICATIONS

The bill reorganizes the divisions and bureaus within the PRC. The bill does not appropriate general funds, nor does it indicate the scope or magnitude of the restructuring effort.

SIGNIFICANT ISSUES

In 2010, a Government Restructuring Task Force (GRTF) convened by the Legislature considered restructuring options for the PRC and the final report concluded:

“The Commission has constitutional authority to protect the public from ‘natural monopolies’ – utility, transportation, and telecommunication companies. However, a constitutional amendment expanded the Commission’s authority to include insurance regulation. The Commission has limited influence over insurance regulation because, by statute, the authority is vested with the Superintendent of Insurance.”

“Through legislative action, the Office of the State Fire Marshal was transferred to the PRC along with the Fire Fighter Training Academy. As with the Insurance Division, the Commission has limited involvement in the operations of the State Fire Marshal.” “The structural inefficiency created by duplicative regulatory structures between the commission and the Insurance Division and limited authority over the Office of the State Fire Marshal is weakening the department. Over the years, the mission and purpose of the commission has expanded beyond its original constitutional mandate.”

“...currently the authority of the PRC Commission is being weakened by a semi-autonomous Insurance Division and Office of the State Fire Marshal. New Mexico is unique compared to other states in the breadth of responsibilities assigned to its regulatory commission. Not only does the PRC provide regulation and oversight of utilities, telecommunications and motor carriers but also provides administrative oversight of the insurance industry and certain public safety functions, such as pipeline safety, the State Fire Marshal Office, and the Firefighter Training Academy.”

The “high level recommendation” of GRTF relative to the PRC follows:

Certain functions of the PRC have authority granted by the Constitution while other functions are established in statute. Instead of a piecemeal approach to addressing the powers and duties of the PRC, the whole commission should be abolished then

reestablished. Certain functions of the PRC should be transferred to other agencies including the following:

1. The Transportation Division from the PRC to the Department of Public Safety (DPS);
2. The Insurance Division from the PRC to the Regulation and Licensing Department (RLD) or to a newly created independent Department of Insurance;
3. The process of collecting insurance tax premiums from PRC to the Taxation and Revenue Department (TRD);
4. The State Fire Marshal's Office from the PRC to DPS;
5. The Operations Division from the SOS to the PRC"
6. The corporation and utility regulation functions of the PRC would probably be retained in a standalone Public Regulatory Department.

This bill represents an effort to streamline and restructure the PRC without seeking a Constitutional Amendment. The semi-autonomous functions of the Insurance Division and State Fire Marshal are consolidated while less complicated regulatory functions are consolidated under the Business Services Division. It is difficult to discern how merely transferring a function from one division or bureau to another would result in any tangible benefits. As the GRTF identified, the breadth of the regulatory responsibilities assigned to the PRC is of a concern.

ADMINISTRATIVE IMPLICATIONS

The uncertainty and confusion that would arise from any reorganization proposal may reduce the Commission's ability to carry out its statutory functions during the reorganization period, which potentially could last for more a year to two.

According to the PRC, reorganizing the legal functions under one division may create an issue of ex parte communication.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill relates to and is conflict with several PRC reform and reorganization proposals:

- HJR 11, PRC Commissioner Qualifications, CA
- HJR 13, Elected Insurance Superintendent, CA
- HJR 14, PRC Appointment & Retention, CA
- HJR 16, Corporations from PRC to Sec. of State,
- HJR 17, PRC Appointed Insurance Superintendent, CA
- SJR 2, Public Regulation Commission, CA