

FIFTY-FOURTH LEGISLATURE
FIRST SESSION

March 15, 2019

HOUSE FLOOR AMENDMENT number 1 to SENATE EDUCATION COMMITTEE
SUBSTITUTE FOR SENATE BILL
668, as amended

Amendment sponsored by Representative Greg Nibert

1. Strike House Judiciary Committee Amendments 11, 12, 18, 26, 31, 37 and 38.

2. On page 6, line 23, strike "two" and insert in lieu thereof "five".

3. On page 8, line 22, after "attorney", insert ", upon approval of at least five commissioners".

4. On page 16, line 3, after the semicolon, insert "and".

5. On page 16, line 5, strike the semicolon, strike lines 6 through 9 and insert in lieu thereof a period.

6. On page 19, strike lines 12 through 16 in their entirety and insert a new Subsection G to read:

"G. If the general counsel determines that there is probable cause, the director shall promptly notify the respondent of the finding of probable cause and of the specific allegations in the complaint that are being investigated and that a public hearing will be set. If the finding of probable cause involves a discriminatory practice or actions by the respondent against the complainant, no settlement agreement shall be reached without prior consultation with the complainant. In any case, the notification, complaint, specific allegations being investigated and any response to the complaint shall be made public thirty days following notice to the respondent."

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7. On page 20, line 3, strike "has the right to" and insert in lieu thereof "may".

8. On page 20, line 8, strike "under seal".

9. On page 20, line 15, after the period, strike the remainder of the line, strike line 16 up to the period and insert in lieu thereof:

"All proceedings in the district court prior to the complaint being made public pursuant to Subsection G of this section, or upon entry of a settlement agreement, shall be sealed. A case is automatically unsealed upon notice by the commission to the court that the commission has made the complaint public".

10. On page 22, line 16, after the comma, insert "request the director to".

11. On page 23, line 4, strike "The commission" and strike lines 5 and 6.

12. On page 23, line 7, after "F.", strike the remainder of the line, strike lines 8 and 9 and insert in lieu thereof:

"The commission shall publicly disclose a decision, including a dismissal following a finding of probable cause or the terms of a settlement, issued pursuant to this section. The commission shall provide the decision to the complainant, the respondent".

13. On page 24, line 24, after "public", insert "by the commission; provided that the commission shall not prohibit the complainant or respondent from releasing the commission's decision or other information concerning the complaint".

14. On page 27, line 19, strike "undergoing" and strike line 20 up to "shall".

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15. On page 43, between lines 6 and 7, and after House Judiciary Committee Amendment 35, insert the following section to read:

"SECTION 35. Section 34-10-2.1 NMSA 1978 (being Laws 1977, Chapter 289, Section 1) is amended to read:

"34-10-2.1. JUDICIAL STANDARDS COMMISSION--DUTIES--SUBPOENA POWER.--

A. Pursuant to the judicial standards commission's authority granted by Article 6, Section 32 of the constitution of New Mexico, any justice, judge or magistrate of any court may be disciplined or removed for willful misconduct in office, persistent failure or inability to perform the judge's duties or habitual intemperance, or may be retired for a disability that seriously interferes with the performance of the justice's, judge's or magistrate's duties and that is, or is likely to become, of a permanent character. The judicial standards commission is granted the same authority to regulate the conduct and character of court-appointed commissioners, hearing officers, administrative law judges or special masters while acting in a judicial capacity.

B. With respect to the officials listed in Subsection A of this section, the judicial standards commission shall:

(1) investigate all charges, complaints and allegations as to willful misconduct in office, persistent failure or inability to perform [~~a judge's~~] official duties or habitual intemperance, [~~of any justice, judge or magistrate of any court, and when~~] if the commission deems necessary, and hold a hearing on the charges, complaints or allegations concerning the discipline or removal of [~~such judicial officer~~] the official;

(2) investigate and, if the commission deems necessary, hold hearings on any charge, complaint or allegation that [~~a justice, judge or magistrate~~] an official listed in Subsection A

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of this section has suffered a disability that is seriously interfering with the performance of [~~his~~] the official's duties [~~which~~] and that is, or is likely to become, of a permanent character;

(3) if the commission deems it necessary or convenient, appoint three masters, who are justices or judges of courts of record, to hear and take evidence in any matter arising under Paragraph (1) or (2) of this subsection who shall report their findings to the commission; and

(4) after a hearing deemed necessary pursuant to Paragraph (2) of this subsection or after considering the record and the findings and report of the masters, if the commission finds good cause, [~~it shall~~] recommend to the supreme court the discipline, removal or retirement of the [~~justice, judge or magistrate~~] official.

[~~B.~~] C. In any investigation or hearing held under the provisions of this section, the commission [~~shall have the power to~~] may administer oaths and, with the concurrence of a majority of the members of the commission, [~~it may~~] petition a district court to subpoena witnesses, compel their attendance and examine them under oath or affirmation and require the production of any books, records, documents or other evidence it may deem relevant or material to an investigation upon a showing of probable cause."".

16. On page 43, between lines 22 and 23, insert the following sections:

"SECTION 37. TEMPORARY PROVISION--COMPILER'S INSTRUCTION.--
The New Mexico compilation commission shall rename Chapter 2, Article 15 NMSA 1978 "Legislative Ethics".

SECTION 38. REPEAL.--Sections 2-15-1 through 2-15-6 NMSA 1978 (being Laws 1993, Chapter 46, Sections 46 through 51) are repealed.".

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17. On page 44, line 3, after "8", insert "34, 37 and 38".
18. On page 44, line 5, strike "35" and insert in lieu thereof "33 and 36".
19. On page 44, between lines 5 and 6, insert a new subsection to read:

"C. The effective date of the provisions of Section 35 of this act is July 1, 2020."
20. Renumber sections to correspond with these and previous amendments.

Greg Nibert

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____