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FISCAL IMPACT REPORT

SPONSOR Neville ORIGINAL DATE 1/29/19
LAST UPDATED _____ HB _____

SHORT TITLE Transfer PRC from Elected to Appointed, CA SJR 4

ANALYST Martinez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Conflicts with SJR01
Companion to SB099

SOURCES OF INFORMATION

LFC Files

Responses Received From
Public Regulation Commission (PRC)

SUMMARY

Synopsis of Bill

SJR4 proposes a constitutional amendment to replace the five-member elected PRC with a five-member appointed PRC. The members would be appointed by the governor with the advice and consent of the senate. Instead of election by district, the members would be appointed at large from the state.

FISCAL IMPLICATIONS

SJR4 carries no appropriation and should not impact the operating budget of the Public Regulation Commission, as the total amount of commission members would remain the same. However, potential costs could include the cost of a referendum or placement on a general election ballot. Fairly minimal costs or savings might arise from administrative changes to the PRC that might result from adoption of SJR4.

SIGNIFICANT ISSUES

The following was submitted by the Public Regulation Commission:

The PRC has constitutional responsibility for regulating public utilities, including electric, natural gas and water companies; transportation companies, including common and contract carriers; transmission and pipeline companies, including telephone, telegraph and information transmission companies; and other public service companies in such manner as the legislature shall provide. N.M. Const. Art XI, § 2. As presently constituted, the PRC is composed of five members elected by district.

SJR4 would also add the requirement that no more than three commissions may be members of the same political party at the time of their appointment. SJR04 would also add the requirement that members must be residents of New Mexico.

SJR4 would also add more specific requirements for member qualifications than are in the current constitutional provision. SJR4 would require that, for future appointees: (1) one must be an attorney licensed to practice in New Mexico; (2) one must be an engineer registered in New Mexico; (3) one must be a certified public accountant certified in New Mexico; (4) one must be a person with at least five years of experience working in an industry regulated by the PRC but not working in a regulated industry at the time of assuming office; and (5) one must be a member of the public. As in the current constitutional provision, SJR04 would empower the legislature to impose additional qualifications for members, although SJR04 would make this permissive (“may”), whereas the current provision requires (“shall”) the legislature to do so.

Under SJR4, members would serve four-year terms, which is also currently the case. Under SJR04, the appointed members’ terms would be staggered, beginning as the terms of the elected members end.

SJR4 would add the following to the constitutional provision: “A commission member shall be removed for malfeasance, misfeasance or neglect of duty after a hearing before the supreme court pursuant to court rules. The Supreme Court’s jurisdiction over the hearing is exclusive, and its decision on the removal is final.”

SJR4 would change the current constitutional prohibition that “No commissioner or candidate for the commission shall accept anything of value from a person or entity whose charges for services to the public are regulated by the commission.” See N.M. Const. Art XI, § 1. Under SJR04, this prohibition would apply only to members of the commission, not to candidates for the commission.

SJR4 would include continuing education requirements for members, to be determined by the legislature, as in the current constitutional provision. See N.M. Const. Art XI, § 1.

SJR4 would also specify that the PRC is a “full-time” commission.

SJR4 would be implemented by referendum or on the ballot at the next general election.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The Public Regulation Commission Act, NMSA 1978, § 8-8-1 et seq. (2013), would need to be amended to conform to any portions of SJR4 that differ from the current constitutional provision.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo, which is a five-member PRC elected by district.

JM/al