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## FISCAL IMPACT REPORT

SPONSOR SJC ORIGINAL DATE 02/14/20  
LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_  
SHORT TITLE PRC Election & Changes SB 281/SJCS  
ANALYST Martinez

### Estimated Additional Operating Budget Impact

Appropriation		Recurring or Nonrecurring	Fund Affected
FY20	FY21		
	\$125.0 - \$150.0	Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Secretary of State (SOS) on original bill

#### No Response Received

Public Regulation Commission (PRC)

### SUMMARY

#### Synopsis of Bill

Senate Bill 281 amends sections of the election code to remove PRC commissioners as elected officials and creates the public regulation commission nominating committee.

Section 1 amends NMSA 1978, Section 1-3-12 removes the PRC from redistricting completed by the Legislature once every ten years.

Section 2 and 3 amends NMSA 1978, Sections 1-8-2 and 3 removes PRC from the rules minor parties use to elect certain officers.

Section 4 amends NMSA 1978, Section 1-8-13 removes PRC from the SOS's election proclamation.

Section 5 amends NMSA 1978, Section 1-8-33 removes PRC from the calculation of petition signatures need to run in the primary.

## Senate Bill 281/SJCS – Page 2

Section 6 amends NMSA 1978, Section 1-8-36.1 removes PRC from the write-in qualifications for certain offices.

Section 7 amends NMSA 1978, Section 1-8-51 removes PRC from the calculation of petition signatures need to run as an independent candidate.

Section 8 amends NMSA 1978, Section 1-10-8 removes PRC from the order of how candidates appear on the ballot.

Section 9 amends NMSA 1978, Section 1-14-24 removes PRC from the candidate contests in which recounts apply.

Section 10 through Section 13 amends the Voter Action Act (VAA) to remove PRC from the covered office in which public finance could be attained and other references to the PRC and the PRC subaccount used to pay expenses to carry out the VAA related to PRC elections.

Section 14 removes PRC commissioner from a compensated elective state officer.

Section 16 removes “elected” from the definition on commissioner.

Section 17 amends NMSA 1978, Section 8-3-3 to change the composition of the PRC from 5 to 3 commissioners and that they be appointed by the governor with consent of the senate. This section also removes any reference to the PRC Apportionment Act.

Section 18 would create the PRC Nominating Committee (“PRCNC”). PRCNC would consist of seven members. Section 18 also lists the PRCNC member’s qualifications. This Section would also require 4 members be appointed one each by the speaker of the house, minority floor leader, and the majority and minority floor member. The other members will be appointed by president of UNM, NMSU, and NMIMT. The first meeting of the appointed members of the PRCNC shall be before September 1, 2022 to elect its organization chairs and appoint nominees for terms beginning January 1, 2023. The list of nominees composed by the PRCNC shall consider geographical diversity, and nominees on the list shall be from at least three different counties of the state. A majority vote of all members of the committee in favor of a person is required for that person to be included on the list of qualified nominees submitted to the governor.

Section 19 removes “elected” and “candidate” from the requirements for a PRC commissioner. This section also removes any reference to election related activity. Section 19 also includes Qualifications of Commissioners, including a commissioner must have a baccalaureate degree from an institution of higher education or a post graduate degree in a filed related to an area regulated by the commission, including policy and at least 10 years of professional experience within the person’s field. Section 19 also requires that a commissioner shall not have a financial interest in a public utility in New Mexico or elsewhere and shall not have been employed by a commission-regulated entity at any time during the two years prior to appointment to the commission. Section 19 also requires that commissioners shall give their entire time to the business of the commission and shall not pursue any other business or vocation or hold any other office for profit.

Section 21 updates Section 8-8-18 regarding recusal of a commissioner.

Section 22 removes any reference to campaign or other election related activity to the prohibited acts of PRC or nominees.

Section 23 amends NMSA 1978, Section 10-11-26 includes that a member who on or after January 1, 2023 becomes a public regulation commission commissioner, who was not a retired member or a member prior to January 1, 2023 and whose services credit is limited to service as a commissioner, the age and service requirement for normal retirement is age sixty-five years or older and six or more years of serve credit.

Section 24 includes temporary provisions.

Section 24 repeals Section 8-7-1 through -11

The provisions of this act shall become effective on the following dates upon certification by the Secretary of State that the Constitution of New Mexico has been amended as proposed by a joint resolution of the first session of the fifty-fourth legislature providing for a commission of 3 members, appointed by the Governor.

"A JOINT RESOLUTION PROPOSING TO AMEND THE CONSTITUTION OF NEW MEXICO TO PROVIDE THAT THE PUBLIC REGULATION COMMISSION CONSIST OF THREE MEMBERS APPOINTED BY THE GOVERNOR FROM A LIST OF PROFESSIONALLY QUALIFIED NOMINEES SUBMITTED TO THE GOVERNOR BY A NOMINATING COMMITTEE AS PROVIDED BY LAW AND THAT THE COMMISSION IS REQUIRED TO REGULATE PUBLIC UTILITIES AND MAY BE REQUIRED TO REGULATE OTHER PUBLIC SERVICE COMPANIES".

If the certification occurs, the effective date of the provisions of: Sections 1 through 17 and 19 through 24 of this act is January 1, 2023; and Section 18 of this act is January 1, 2022.

### **FISCAL IMPLICATIONS**

Under Section 1-16-4 NMSA 1978, SOS is required to print the full text of each proposed constitutional amendment, in both Spanish and English, in an amount equal to ten percent of the registered voters in the state. SOS is also constitutionally required to publish the full text of each proposed constitutional amendment once a week for four weeks preceding the election in newspapers in every county in the state. The estimated cost per constitutional amendment is \$125 thousand - \$150 thousand, depending upon the number and length of the constitutional amendments, number of registered voters, and whether additional ballot printing systems are needed.

The SOS notes:

The Voter Action Act currently covers PRC races; races for those positions that would be appointed if this amendment is passed would no longer need to be publicly funded.

### **SIGNIFICANT ISSUES**

The SOS notes:

The PRC commissioners should consider if they want to be subject to NMSA 1978,

Section 1-19-34.2 - Regulated industry solicitations prohibited.

**PERFORMANCE IMPLICATIONS**

The SOS notes:

The SOS would need to amend its current training materials to include this change.

JM/rl/sb