

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILLS 47 & 89

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

AN ACT

RELATING TO THE PUBLIC REGULATION COMMISSION; PROVIDING FOR  
CONSTITUTIONALLY MANDATED INCREASED QUALIFICATIONS AND  
CONTINUING EDUCATION REQUIREMENTS FOR PUBLIC REGULATION  
COMMISSIONERS; PROVIDING FOR THE WITHHOLDING OF COMPENSATION.

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

**SECTION 1.** A new section of the Public Regulation  
Commission Act is enacted to read:

"[NEW MATERIAL] QUALIFICATIONS OF COMMISSIONERS.--

A. In addition to other requirements imposed by  
law, in order to qualify to hold office, a candidate for  
election or a prospective appointee to a commissioner position  
shall:

(1) have a combined total of at least twelve  
years of professional experience or higher education resulting

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underscoring material = new  
[bracketed material] = delete

1 in a degree or degrees, or both, as follows:

2 (a) professional experience in a field  
3 related to the regulatory authority of the commission,  
4 including accounting, advocating for consumer or environmental  
5 issues before energy or utility regulatory bodies, earth  
6 sciences, economics, energy, engineering, finance, law, public  
7 or government administration, telecommunications, utility  
8 regulation or the regulation or management of water or  
9 wastewater. As used in this section, "a year of professional  
10 experience" equals two thousand hours of employment or self-  
11 employment, and "professional experience" means employment in  
12 which the candidate or prospective appointee for commissioner  
13 regularly made decisions requiring discretion and independent  
14 judgment and: 1) analyzed or interpreted numerical or  
15 statistical data; 2) engaged in policy analysis, research or  
16 implementation; 3) advocated before a regulatory agency; or 4)  
17 managed a business, organization, agency, division or  
18 department that had more than ten employees during the time it  
19 was managed by the candidate or prospective appointee; or

20 (b) a degree from an institution of  
21 higher education that has been accredited by a regional or  
22 national accrediting body in a field related to the regulatory  
23 authority of the commission, including accounting, business  
24 administration, earth sciences, economics, energy, engineering,  
25 environmental sciences, finance, law, mathematics, public or

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1 government administration, statistics, utility regulation or  
2 water science and management. As used in this section, the  
3 following educational degrees equal the number of years of  
4 higher education indicated and, except for an associate's  
5 degree, may be combined to determine an aggregate total number  
6 of years of higher education: 1) an associate's degree equals  
7 two years; 2) a bachelor's degree equals four years; 3) a  
8 master's degree equals two years; 4) a juris doctor degree  
9 equals three years; 5) a master of law degree equals one year;  
10 and 6) a doctor of philosophy or doctoral degree equals four  
11 years; or

12 (2) be a commissioner on or after January 1,  
13 2011.

14 B. In addition to filing a declaration of candidacy  
15 or a declaration of intent and nominating petition as required  
16 by Chapter 1, Article 8 NMSA 1978, a candidate or, in the case  
17 of a vacancy on the commission, a prospective appointee shall  
18 file with the secretary of state, in a manner determined by the  
19 secretary, documentation demonstrating that the candidate or  
20 prospective appointee satisfies the qualifications requirement  
21 of Paragraph (1) of Subsection A of this section unless the  
22 candidate or prospective appointee meets the requirement of  
23 Paragraph (2) of Subsection A of this section. The  
24 documentation shall consist of:

25 (1) a sworn affidavit from a person other than

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1 the candidate or prospective appointee attesting to the  
2 candidate's or prospective appointee's professional experience.  
3 The affidavit shall state the length of the candidate's or  
4 prospective appointee's employment and describe specifically  
5 how the position or positions held by the candidate or  
6 prospective appointee satisfy the requirement of professional  
7 experience; or

8 (2) proof of a degree granted by an  
9 institution of higher education that includes the type of  
10 degree granted and the field of study for the degree.

11 C. In the case of a candidate:

12 (1) the qualifications documentation shall be  
13 filed with the secretary of state no later than 5:00 p.m. on  
14 the filing date for the candidate's declaration of candidacy  
15 and nominating petition; and

16 (2) upon receipt of the qualifications  
17 documentation, and no later than 5:00 p.m. on the seventh day  
18 following the filing date, the secretary of state shall  
19 determine whether the documentation satisfies the requirements  
20 of Subsection A of this section. The secretary of state shall  
21 accept documentation, in a manner determined by the secretary,  
22 that demonstrates on its face that it meets the requirements of  
23 Subsection A of this section and shall not conduct an  
24 investigation into the accuracy or integrity of the  
25 documentation provided. The secretary of state shall notify

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1 the candidate in writing whether the candidate is qualified or  
2 not qualified to hold the office of commissioner in accordance  
3 with the requirements of Section 1-8-26 NMSA 1978. A voter may  
4 challenge the decision of the secretary of state by filing a  
5 petition in the district court within ten days of the decision.  
6 The district court shall hear and render a decision on the  
7 matter within ten days after the filing of the petition. The  
8 decision of the district court may be appealed to the supreme  
9 court within five days after the decision is rendered. The  
10 supreme court shall hear and render a decision on the appeal  
11 forthwith.

12 D. In the case of a prospective appointee:

13 (1) the qualifications documentation shall be  
14 filed with the secretary of state prior to an appointment  
15 announcement by the governor; and

16 (2) upon receipt of the qualifications  
17 documentation and no later than 5:00 p.m. on the fifteenth day  
18 following the receipt of the documentation, the secretary of  
19 state shall determine whether the documentation satisfies the  
20 requirements of Subsection A of this section. The secretary of  
21 state shall accept documentation, in a manner determined by the  
22 secretary, that demonstrates on its face that it meets the  
23 requirements of Subsection A of this section and shall not  
24 conduct an investigation into the accuracy or integrity of the  
25 documentation as provided. The secretary of state shall notify

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1 the governor and the prospective appointee in writing whether  
2 the prospective appointee is qualified or not qualified to hold  
3 the office of commissioner. If the secretary of state  
4 determines that the prospective appointee is qualified, the  
5 secretary of state shall notify the governor and the  
6 prospective appointee in writing that the prospective appointee  
7 is qualified to hold the office of commissioner.

8 E. If the secretary of state determines that a  
9 candidate or prospective appointee is not qualified, the  
10 candidate or the prospective appointee may challenge that  
11 decision by filing a petition with the district court within  
12 ten days of the notification. The district court shall hear  
13 and render a decision on the matter within ten days after the  
14 petition is filed. The decision of the district court may be  
15 appealed to the supreme court within five days after the  
16 decision is rendered."

17 SECTION 2. A new section of the Public Regulation  
18 Commission Act is enacted to read:

19 "[NEW MATERIAL] CONTINUING EDUCATION REQUIREMENTS FOR  
20 COMMISSIONERS.--

21 A. Beginning July 1, 2013, a commissioner shall  
22 complete at least eighty hours of education in the first  
23 twelve-month period after taking office and forty hours of  
24 education in each subsequent twelve-month period that the  
25 commissioner serves in office. Continuing education courses

1 shall be endorsed by the national association of regulatory  
2 utility commissioners or by the relevant licensing or  
3 professional association for a qualifying area of study for  
4 degree holders pursuant to this section. A commissioner shall  
5 be responsible for having the endorsing organization submit  
6 certification of completion of the required hours of education  
7 to the commission's chief of staff.

8 B. As an exception to Section 8-1-1 NMSA 1978, if a  
9 commissioner fails to comply with the education requirements in  
10 Subsection A of this section by the last day of a twelve-month  
11 period, the commissioner's compensation for performing the  
12 duties of the office shall be withheld by the commission until  
13 the requirements for the preceding twelve-month period or  
14 periods have been met."

15 SECTION 3. APPLICABILITY.--The provisions of Section 1 of  
16 this act apply to:

17 A. persons appointed to fill a public regulation  
18 commissioner vacancy after July 1, 2013; and

19 B. public regulation commissioners elected at the  
20 general election in 2014 and subsequent elections.