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Finally time to reshape PRC?

Think tank urges
minimum qualifications
for commissioners,
reduced responsibilities

By Steve Terrell
The New Mexican

What is it about the New Mexico Public Regulation Commission that seems to attract scandal and controversial characters?

Fred Nathan, executive director of the Santa Fe-based think tank Think New Mexico, has a theory.

"As long as the PRC has so much power, so few qualifications [for commissioners] and a \$90,000 salary, it will be a magnet for corrupt politicians like Jerome Block Jr."



Fred
Nathan

Nathan said that during an interview Friday, just two days after Block pleaded guilty to multiple felonies — among them credit-card fraud, embezzlement, identity theft and violating campaign-finance laws — and agreed to resign from the commission and never again seek elected office.

As of late Friday afternoon, Block had not turned in a letter of resignation. He has until the end of this week to do so, according to the terms of his plea bargain.

Coincidentally, the same week Block resigned, Think New Mexico unveiled to government officials and reporters its latest report, titled "Rethinking the PRC."

Nathan is correct that the commission has much power.

It decides on the rates that power companies and telecommunication operations can charge their customers. It establishes insurance rates and regulates ambulances and taxi companies. Corporations have to register with the commission. It oversees

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PRC: Governor supports reform ideas

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railroad-crossing safety and natural-gas pipelines. The state fire marshal is part of the Public Regulation Commission.

Despite these many and complex duties, "most of the 16 commissioners who have served since the agency's creation have been under-qualified for the job," the report says.

Nationwide, 89 percent of regulatory commissioners have at least a bachelor's degree. But in New Mexico, only 56 percent of commissioners past and present have college degrees.

What to do

In its report, the think tank proposes specific ways to curtail the vast responsibilities of the commission as well as to establish minimum qualifications for commissioners.

- ◆ Create new requirements for commissioners. Those taking the position would have to have at least a bachelor's degree from a four-year college or five years of experience in law, engineering, economics or accounting.

- ◆ Move the Insurance Division out of the commission and make it a Cabinet-level department whose secretary would be appointed by the governor.

- ◆ Move the state fire marshal to the Homeland Security Department.

- ◆ Move corporation reporting to the Secretary of State's Office.

- ◆ Remove the responsibility of regulating railroad crossings, giving that duty to the Department of Transportation.

- ◆ Transfer ambulance regulation to the Department of Health.

- ◆ Deregulate the motor transportation industry so new cab, limousine or shuttle companies wouldn't have their rates set by the commission or anyone else.

In the wake of Block's guilty plea, current commissioners last week paid lip service to some of the ideas touted by Think New Mexico.

"More than a third of commissioners in the history of the [commission] since 1999 have had their service marred by significant scandals," Commissioner Jason Marks, a Democrat, told *The New Mexican*. "The Legislature and the people of New Mexico need to look at structural change."

Commission Chairman Pat Lyons was more specific when he told reporters Thursday, "Maybe you need to put a minimum experience or a college degree or a master's degree [for commissioners]," he said.

"Look at other states," Lyons continued. "The corporations bureau in other states is with the secretary of state. Insurance is an independent

agency in other states."

According to the Think New Mexico report, 35 states have a separate department of insurance.

The report also says the secretary of state handles corporation registrations in 35 states. Eleven states assign that duty to another agency, while New Mexico is one of four states in which corporation registrations are done by agencies that also regulate utilities.

Johnny Montoya, executive director of the commission, said he and other commissioners haven't had time to study the Think New Mexico report, so they can't yet make specific recommendations on the reform proposals.

But Montoya said, "Anything to enhance our perception by the public, anything to make us more efficient, to make us better, will be something we can endorse."

Will the governor get behind the plans?

Actually, Gov. Susana Martinez doesn't have much say in some of the proposed changes. Some of the proposals, like establishing qualifications for commissioners, would have to be established by constitutional amendments.

Last week, Nathan met with Martinez's chief of staff, Keith Gardner, to discuss the think tank's proposals.

"The governor certainly supports reforming the Public Regulation Commission to bring greater public confidence in its activities and decisions," Martinez spokesman Scott Darnell said in a statement Friday. "She believes that engaging in a conversation about substantive PRC reform is warranted and necessary. She is supportive of examining minimal qualification requirements for those who serve on the PRC, as well as moving some of their regulatory authority and functions into other executive branch agencies."

The insurance problem

However, there is one area of the Think New Mexico proposal that Martinez isn't crazy about.

"The governor would be wary of any proposal to create a new executive Cabinet department, but again, she does believe many of the PRC's current regulatory functions can be moved into existing agencies in state government," Darnell said.

Nathan said the idea of creating a new Cabinet department for insurance regulation isn't crucial to the plan. "The important thing is to remove insurance from the [commission]," he said.

Montoya said the current structure of the Insurance Division "sets us up for dysfunction."

The state insurance superintendent reports to the commission's chief of staff, but the commission doesn't have any real authority over most of the insurance superintendent's decisions. As the Think New Mexico report says, "appeals of all the superintendent's regulatory decisions except those involving insurance rates go directly to the courts, not to the ... commissioners."

The think tank's report points out that every insurance superintendent in the Public Regulation Commission's history has been fired or forced out of office, sometimes due to scandal. This was the case with Eric Serna, who left the job in 2006 following allegations that he dismissed fines on insurance companies that donated to Con Alma and other nonprofits with which Serna was associated. Serna never was charged with any crime.

A short but controversial history

Serna and Block Jr. are only two members who have been at the center of scandals since the commission was created in 1996.

The Think New Mexico report recalls some others — Tony Schaefer staying overnight at the home of a lawyer for Public Service Co. of New Mexico, which resulted in Schaefer recusing himself from voting in PNM cases; E. Shirley Baca soliciting campaign contributions from every registered lobbyist in the state, including those representing industries regulated by the commission; accusations of sexual harassment by David King that cost the state \$841,842 in a court settlement; Carol Sloan assaulting a woman, which resulted in a felony conviction and loss of her job last year.

Even former state Rep. Bob Perls, who sponsored the bill that created the commission in 1996, has second thoughts about the agency.

Perls, who now works at the U.S. Consulate General Office in Frankfurt, Germany, is quoted in the report saying the commission "has too much to do and should probably stick to its core mission of [regulating] utilities."

Of the commissioners themselves, Perls said, "Somehow we need to get a higher quality of candidate and I am not sure how to do that. ... I like elected due to the accountability, but it has not worked out particularly well due to the mediocre candidates we have had."

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