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Op/Ed guest column Constitutional Amendments 2, 3 and 4

by Fred Nathan

Oct 23, 2012 | 20 views | 0 | 1 | | |

Toward the end of your ballot in this coming election is an opportunity to professionalize and streamline New Mexico's dysfunctional Public Regulation Commission (PRC) by voting in favor of Constitutional Amendments 2, 3 and 4.

This matters because no local, state or federal government agency directly affects more New Mexicans on a daily basis than the PRC.

In addition to approving the prices New Mexicans pay for electricity, natural gas, water and landline telephone service, the PRC also regulates every type of insurance – ranging from auto, property, life and title insurance to health insurance. The PRC controls the cost and service of motor carriers (including taxis, moving vans, buses, shuttles, ambulances and tow trucks); processes corporate registrations; regulates oil, natural gas and hazardous liquid pipelines; and even oversees the State Fire Marshal's office and ski lift inspections.

As a result, the PRC has the broadest regulatory power of any state agency in the nation, yet the qualifications required of the five PRC commissioners are surprisingly low for such a powerful position. PRC commissioners are only required to be: 1) at least 18 years of age; 2) residents of the state for at least one year; and 3) not convicted felons. That is it.

There are no professional requirements or educational requirements – not even a high school diploma. This is particularly troubling because PRC commissioners must frequently make very complex and technical decisions that require them to understand, analyze and apply economic, legal and engineering concepts. The decisions they make affect hundreds of thousands of New Mexicans and tens of millions of dollars. Constitutional Amendment 2 would authorize the legislature to increase the qualifications of PRC commissioners and require continuing education so that the commissioners are better able to fulfill their mission of ensuring fair and reasonable utility rates and service for all New Mexicans.

The PRC would also benefit from being streamlined so that commissioners can focus on their core mission, the regulation of utilities.

A good place to start would be removing the PRC's responsibility for processing the registration of corporations. The PRC's corporations bureau has long been plagued by problems including lost checks, lost paperwork and delays lasting weeks and even months. Further confusing the situation, the PRC handles the reporting and registration of only some types of businesses, like limited liability companies (LLCs), while the Secretary of State handles it for others, like limited liability partnerships (LLPs). Constitutional Amendment 3 would consolidate both units into an efficient one-stop shop for all business registrations and filings at the Secretary of State's office, the way 41 other states do it.

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Another important reform would be to remove the PRC's authority over the Insurance Division. Under the PRC, every Superintendent of Insurance has either been fired or forced to resign because of the inherent conflicts that arise from working for five bosses with competing political agendas. In addition, the Insurance Division has been placed on probation by the National Association of Insurance Commissioners three times in its 16-year history, in large part because in the past, PRC commissioners had pressured the division to hire unqualified but politically connected employees. Constitutional Amendment 4 would instead allow the superintendent to be selected by an independent nominating committee, insulating the regulation of insurance from political interference.

Three of the five current PRC commissioners – Chairman Patrick Lyons, Commissioner Doug Howe and Commissioner Jason Marks – have joined with Think New Mexico to advocate for the passage of Constitutional Amendments 2, 3 and 4 as essential first steps toward turning around the PRC.

Lyons is a Republican, Marks is a Democrat, and Howe is an Independent. This tri-partisan cooperation reflects the fact that this package is about enacting common sense reforms, not politics.

Please encourage all your friends and family to vote in favor of Constitutional Amendments 2, 3 and 4 (on the second side of your ballot). If you would like to learn more about these constitutional amendments to reform the PRC, please visit Think New Mexico's website at www.thinknewmexico.org.

Fred Nathan is Executive Director of Think New Mexico, an independent, results-oriented think tank serving New Mexicans. Think New Mexico released a report last October entitled "Rethinking the PRC."

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