

LFC Requester:	Ruby Ann Esquibel
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**AGENCY BILL ANALYSIS
2017 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original	<input checked="" type="checkbox"/>	Amendment	<input type="checkbox"/>	Date	<u>2/9/17</u>
Correction	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Bill No:	<u>SB261</u>

Sponsor:	<u>Senator Joseph Cervantes</u>	Agency Code:	<u>924</u>
Short Title:	<u>CONSTITUTIONAL REVISION COMMISSION</u>	Person Writing	<u>Matt Pahl</u>
		Phone:	<u>470-9909</u>
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY17	FY18		
100.00	---	Nonrecurring	Legislative Case Balance/ General Fund

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB261 is new legislation creating an independent constitutional revisions commission pursuant to Article 19, Section 1 of the Constitution of New Mexico. The proposed bill provides for an appropriation and declares this bill emergency legislation.

FISCAL IMPLICATIONS

The proposed legislation appropriates \$100,000 from the New Mexico legislative council cash balances to the legislative council service for expenditure in fiscal years 2017 and 2018 to carry out the provisions of the act, with unexpended amounts, at the end of fiscal year 2018 reverting to the general fund.

SIGNIFICANT ISSUES

It is unclear why a constitutional revision commission established in SB261 is necessary. According to Congressional Quarterly, “Politicians and scholars alike say that one of the heaviest burdens on the states is their cumbersome, lengthy and antiquated constitution. Endless restrictions written into these basic laws have helped to make state government the least responsive of any in the federal system to the needs of the day.” It does not appear that the constitution in the state is a significant road block for New Mexico state government

SB261 proposes that the constitutional revision commission examine the constitution of New Mexico and the constitutions of other states to recommend changes in the constitution of New Mexico. It is important to leverage best practices from across the country in any large effort such as that proposed by SB261, but it puts at risk the unique provisions of the constitution that specifically serve and reflect our state appropriately.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

Section 1 of the bill provides for the appointment of “public members” by various governmental entities, to the commission. The term “public members” is not defined and is therefore unclear. If certain individuals are meant to be excluded from possible membership on the commission, the bill should say so.

Section 1(E) states that “the appointments shall be coordinated to ensure that the different geographical areas of the state are represented and that the members reflect the cultural, economic, professional and ethnic diversity of New Mexico.” There is no process by which this evaluation or co-ordination will occur, and the standards are quite vague. The provision arguably makes the geographical and cultural diversity mandatory by using the phrase “to ensure that”; using mandatory language may leave the constituency and therefore validity, of the commission, open to question for not meeting such standards. This might be somewhat resolved by using the phrase “to reflect” in place of “to ensure that.”

Section 2 of the act addresses potential vacancies on the commission, but does not include a timeframe for making an appointment to fill a vacancy. The commission is only constituted for a short period of time, therefore, time would be of the essence for filling vacancies. It might be worth considering the addition of a time within which a vacancy on the commission would be filled.

Section 4 of the act requires the commission to make a report and recommendation to the legislature and the governor. Section 1(G) of the act designates the chief justice of the New Mexico supreme court or their designee and the attorney general, or their designee, as members of the commission in an advisory capacity. The role of these two individuals would presumably be, in addition to other matters, to advise the commission regarding various legal concerns or issues that might arise regarding any proposed legislation. It might be beneficial to ensure that the report and recommendation has been subjected to such review prior to being submitted to the governor and the legislature. Section 4 could contain a provision requiring that the report and recommendation first be submitted to the two advisory members of the panel prior to submission to the governor and legislature.

Section 5 of the act states that “[t]he staff and research work shall be done under the supervision of the chair of the constitutional revision commission by employees approved by the commission, assisted, upon request, by the legislative council service.” It isn’t clear who employs these employees. If it is the commission, and the funding for the salaries of the employees is intended to be covered by the \$100,000.00 appropriation, it may be insufficient, given that the staff “shall examine the constitution of New Mexico and the constitutions of other states to recommend changes in the constitution of New Mexico . . .”

Section 10 of the act states that “It is necessary for the public peace, health and safety that this act take effect immediately.” This is quite vague.

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Other means of constitutional amendment remain available.

AMENDMENTS