

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the Legislature. LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Soules</u>	<b>LAST UPDATED</b> <u>2/18/2025</u>
<b>SHORT TITLE</b> <u>PRC &amp; Supporting Agency</u>	<b>ORIGINAL DATE</b> <u>1/30/2025</u>
	<b>BILL NUMBER</b> <u>Senate Bill 109/aSRC/aSJC</u>
	<b>ANALYST</b> <u>Rodriguez</u>

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\*

(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	No fiscal impact	No fiscal impact	\$0.0		

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

#### Agency Analysis Received From

Public Regulation Commission (PRC)

New Mexico Attorney General (NMAG)

## SUMMARY

### Synopsis of SJC Amendment to Senate Bill 109

The Senate Judiciary Committee amendment to Senate Bill 109 (SB109) requires the Public Regulation Commission (PRC) to have the listed organizational units, as opposed to “may include,” and specifies that duties held by PRC can be performed by any organizational unit. The amendment also strikes the word “may” and reinstates the “shall” for duties of the consumer relations division and telecommunications bureau. The amendment also requires the commission to set minimum requirements for the director of the legal division and minimum educational and experience requirements, as opposed to the chief of staff.

### Synopsis of SRC Amendment to Senate Bill 109

The Senate Rules Committee amendment to SB109 clarifies that commissioners must complete two hours of ethics courses offered by educational institutions or other providers approved by a professional licensing board, strikes language allowing the withholding compensation if certain educational requirements are not meant and instead refers noncompliance to the state’s ethics commission, increases the maximum amount of refreshments commissioners and PRC employees can accept at public receptions or social functions, and requires the agency’s phone number to be available on the its website.

### Synopsis of Senate Bill 109

SB109 amends the Public Regulation Commission Act, Chapter 62 Article 19 NMSA 1978.

While some of the changes are non-substantive and are included for clarity, the bill includes more significant changes as summarized below:

- A new definition for the agency to separate the agency from the commission—the agency includes staff who work at PRC, while the commission includes the three appointed commissioners;
- Removing “rulemaking” from the definition for “intervenor” and limiting their involvement to only adjudicatory matters, as opposed to either adjudicatory or rulemaking matters;
- Changing delegation of authority to subordinates from the commissioners to include the chief of staff as an intermediary;
- Striking the requirement of the commission to provide surety bond coverage for employees and the requirement to pay the costs of such bonds;
- Changes the requirement for commissioners to be in a quorum to make any decision to requiring a quorum for commissions to make final decisions on public business matters, or those related to their constitutional or statutory duties, and, therefore, excluding international or administrative functions related to the agency.
- Sections 7 through 9 of the bill changes “shall” to “may” regarding what organizational units should be included at the PRC and functions for the administrative services division, consumer relations division, telecommunications bureau, and hearing examiners.
- Striking language from Section 62-19-21 that outlines processes for adopting rules that affect the public to instead follow the State Rules Act.
- Expanding language on how a commissioner may consult with another commissioner or advisory staff such that discussions outside a formal meeting cannot include voting or opinions about the final decision and that all official action or decisions are made during public hearings.

Non-substantive changes include:

- Changes to clarify the appointed commissioners and all other PRC staff.
- Removing beginning dates that are no longer relevant, such as requiring commissions to take certain course work beginning July 1, 2013.
- Removing the functions of the telecommunications department from the utility division because the statute creating the telecommunications bureau establishes it in the utility division.
- Replacing gender-specific language with neutral descriptors.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

## **FISCAL IMPLICATIONS**

There are no fiscal implications for SB109.

## **SIGNIFICANT ISSUES**

SB109 distinguishes between the commissioners and PRC staff. The New Mexico Attorney General (NMAG) raises concerns that this may cause confusion. NMAG further writes:

Stakeholders and the public colloquially refer to the PRC, inclusive of the support staff

and commissioners, as the “commission.” Needing to start distinguishing between the “agency” and the “commission” may be difficult and cause confusion. Many may find it simpler or as easy to continue referring to the appointed commissioners as “the commissioners,” and the support staff as either “support staff” or by their unique roles (administrative services, consumer relations, staff attorneys, general counsel, utility division, pipeline safety division, etc.).

NMAG also raises concerns over proposed changes that would no longer make it mandatory for hearing examiners to provide a recommended decision to commissioners. NMAG writes:

The proposed change in 62-19-20(B) [Section 13 of SB109] making it no longer mandatory for a hearing examiner to provide a recommended decision to the commissioners is likely to cause confusion. It appears that it makes it permissive, rather than mandatory, for a hearing examiner to provide their recommended decision to the commissioners, yet it remains mandatory for the hearing examiner to provide an recommended decision to the parties to the case so that they may file exceptions (in which the parties articulate ways in which they believe that the recommended decision is wrong about the law or facts of the case). As the process currently exists, it is the recommended decision and the filed exceptions which are taken under advisement by the commissioners in determining the final order of that case, and the final order is usually largely based on the recommended decision. This is because it is the hearing examiners who have heard the evidence and legal arguments and have therefore been deemed to be in the best position to communicate the facts and legal issues to the commissioners, which they do through the provision of a recommended decision. If a hearing examiner chooses not to provide a recommended decision (as it would no longer be required under the statute), it is unclear what will be provided to inform the commissioners about the details of the case on which they need to provide an informed vote.

JR/sgs/hg/sgs/SL2/hg/sgs