

ARTICLE XI

Corporations Other Than Municipal

Section 1. [Creation and composition of public regulation commission.]

A. The "public regulation commission" is created. Until January 1, 2023, the commission shall consist of five members elected from districts provided by law for staggered four-year terms beginning on January 1 of the year following their election; provided that after serving two terms, members shall be ineligible to hold office as a commission member until one full term has intervened; and provided further that commission members elected for terms beginning January 1, 2021 shall hold office for two years.

B. Beginning January 1, 2023, the commission shall consist of three members. The governor shall nominate members from a list of qualified nominees submitted to the governor by the public regulation commission nominating committee, as provided by law, and by and with the consent of the senate shall appoint members to fill positions and vacancies on the commission; provided that no more than two commissioners shall be members of the same political party. Members so appointed shall serve six-year staggered terms; provided that, after serving two consecutive six-year terms, members shall be ineligible to hold office as commissioner until one full term has intervened. A person appointed to fill a vacancy on the commission shall serve for the remainder of the unexpired term.

C. A six-year term for a commission position shall begin on January 1 of the year following the expiration of the prior term for that position; provided that in January 2023, one member shall be appointed for an initial term of two years, one member for an initial term of four years and one member for a six-year term.

D. The legislature shall provide, by law, for professional qualifications and continuing education requirements for commissioners and for the creation of and procedures for the public regulation commission nominating committee.

E. A commission member may be removed by impeachment for accepting anything of value from a person or entity whose charges for services to the public are regulated by the commission, malfeasance, misfeasance or neglect of duty. (As added November 5, 1996; as amended November 6, 2012 and November 3, 2020.)

ANNOTATIONS

Compiler's notes. — The repeal of Sections 1 through 12 and 15 through 17 of Article XI, effective January 1, 1999, proposed by H.J.R. No. 16 (Laws 1996) was adopted at the general election held November 5, 1996, by a vote of 232,788 for and 221,693 against. At that general election, new Sections 1 and 2 were adopted within this article.

The 2020 amendment, which was proposed by SJC/SRC/S.J.R. Nos. 1 & 4 (Laws 2019) and adopted at a general election held on November 3, 2020 by a vote of 445,655 for and 355,471 against, provided that the public regulation commission shall continue to consist of five members until January 1, 2023, at which time, following the completion of certain commission members' terms, the commission shall consist of three members, provided the appointment process for commission members, provided the length of terms and the limitation on terms for the three-member commission, and provided that commission members may be removed by impeachment for certain improper conduct committed while serving on the commission; in Subsection A, added "Until January 1, 2023" preceding "the commission shall consist of five members", after "provided that", deleted "those chosen at the first general election after the adoption of this section shall immediately classify themselves by lot, so that two of them shall hold office for two years and three of them for four years; and further provided that", and after "intervened", added "and provided further that commission members elected for terms beginning January 1, 2021 shall hold office for two years."; added Subsections B and C in Subsection D, after "by law,", deleted "increased" and added "for professional", after "qualifications", deleted "for commissioners", and after "requirements for commissioners", deleted "The increased qualifications provided by this 2012 amendment shall apply to public regulation commissioners elected at the general election in 2014 and subsequent elections and to commissioners appointed to fill a vacancy at any time after July 1, 2013. No commissioner or candidate for the commission shall accept anything of value from a person or entity whose charges for services to the public are regulated by the commission." and added "and for the creation of and procedures for the public regulation commission nominating committee"; and added Subsection E.

The 2012 amendment, which was proposed by H.J.R. No. 11 (Laws 2012) and adopted at a general election held on November 6, 2012 by a vote of 542,928 for and 128,238 against, required the legislature to provide increased qualifications and continuing education requirements for public regulation commissioners that apply to commissioners elected at the general election in 2014 and subsequent elections and to commissioners appointed to fill a vacancies at any time after July 1, 2013; and added the third and fourth sentences.

In general. — The functions of the corporation commission (now public regulation commission) are not confined to any of the three departments of government named in [N.M. Const., art. III, § 1](#), but its duties and powers pervade them all. *In re Atchison, T. & S.F. Ry.*, [1933-NMSC-029](#), [37 N.M. 194](#), [20 P.2d 918](#).

Legislative intent. — Section 8-7-4A NMSA 1978 is constitutional and a safe guide to the legislative intent behind this section. *Block v. Vigil-Giron*, [2004-NMSC-003](#), [135 N.M. 24](#), [84 P.3d 72](#).

Language following "provided that" is read as an exception to the general rule that precedes it. Therefore, there is no right under the New Mexico constitution to serve two four-year terms before being subjected to term limits. *Block v. Vigil-Giron*, [2004-NMSC-003](#), [135 N.M. 24](#), [84 P.3d 72](#).

Word "term", as used in this section, includes both a full four-year term and a shortened two-year term. *Block v. Vigil-Giron*, [2004-NMSC-003](#), [135 N.M. 24](#), [84 P.3d 72](#).

Amendment not "act of legislature". — The 1996 amendment of N.M. Const., art. XI, was not an "act of the legislature" within the meaning of [N.M. Const., art. IV, § 34](#). *U.S. West Communications, Inc. v. New Mexico Pub. Regulation Comm'n*, [1999-NMSC-024](#), [127 N.M. 375](#), [981 P.2d 789](#).

Consecutive terms. — A public regulation commission commissioner elected to serve consecutive two-year and four-year terms may not run again for another four-year term until one full term has intervened. 2003 Op. Att'y Gen. No. [03-05](#).

Law reviews. — For comment on *State ex rel. State Corp. Comm'n v. Zinn*, [72 N.M. 29](#), [380 P.2d 182](#) (1963), see 3 *Nat. Resources J.* 356 (1963).

For article, "Constitutional Limitations on the Exercise of Judicial Functions by Administrative Agencies," see 7 *Nat. Resources J.* 599 (1967).

For article, "An Administrative Procedure Act For New Mexico," see 8 *Nat. Resources J.* 114 (1968).

For student symposium, "Constitutional Revision - The Executive Branch - Long or Short Ballot?," see 9 *Nat. Resources J.* 430 (1969).

For article, "Cost of Service Indexing: An Analysis of New Mexico's Experiment in Public Utility Regulation," see 9 *N.M. L. Rev.* 287 (1979).

For article, "Survey of New Mexico Law, 1979-80: Administrative Law," see 11 *N.M. L. Rev.* 1 (1981).

For article, "Survey of New Mexico Law, 1982-83: Administrative Law," see 14 *N.M. L. Rev.* 1 (1984).

For 1984-88 survey of New Mexico administrative law, 19 *N.M. L. Rev.* 575 (1990).

Am. Jur. 2d, A.L.R. and C.J.S. references. — 18 *Am. Jur. 2d Corporations* §§ 7 to 16. Prohibition to control action of commission, 115 *A.L.R.* 34, 159 *A.L.R.* 627.