

LFC Requester:	Charlene Cerny
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**AGENCY BILL ANALYSIS
2015 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 **Amendment**
Correction **Substitute**

Date Prepared: 2/27/15

Bill No: HB 115s

Sponsor: Rep. Brian Egolf

Agency/Code: Attorney General's Office

Person Writing Analysis: Betsy Glenn

Short Title: State Ethics Commission Act

Phone: 827-6425 **Email:** eglenn@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	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

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Letter. This is a staff analysis in response to an agency’s, committee’s, or legislator’s request.

BILL SUMMARY

Synopsis:

The House Government, Elections and Indian Affairs Committee Substitute for HB 115 is essentially the same as the original bill with the following significant changes:

- ◆ adds definitions of “public officer” and “public employee” to the proposed State Ethics Commission Act (“Act”) that effectively expand the jurisdiction of the State Ethics Commission (“Commission”) to include elected officers and employees of local governments.
- ◆ clarifies that candidates for state and county elected offices are within the Commission’s jurisdiction.
- ◆ adds an exception from the Act’s prohibition against disclosure of confidential information where disclosure is necessary to pursue an investigation.
- ◆ deletes a provision in the original bill that prohibited the State Ethics Commission from taking action on complaints against a candidate for a public office between the primary election filing date and the date of the general election.
- ◆ provides that the Act does not preclude a civil action for malicious abuse of process.
- ◆ provides that materials and evidence submitted to the Commission are absolutely privileged in a defamation action.
- ◆ deletes the appropriation made in the original bill.

FISCAL IMPLICATIONS

SIGNIFICANT ISSUES

Like the original bill, HB 115s raises the same basic policy issue: whether New Mexico should join with the reportedly 42 other states that have independent ethics commissions.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HJR 15 proposes a constitutional amendment to establish a similar independent ethics commission.

TECHNICAL ISSUES

Section 11 of HB 115s provides that “commission hearings” on alleged ethics violations are closed to the public. Section 49 makes a corresponding amendment to the Open Meetings Act by adding an exception to that Act’s public meeting requirements for “meetings of the state ethics commission relating to complaints or investigations of alleged ethics violations.”

The term “meetings” used in Section 49 is broader than the term “hearings” in Section 11. A hearing is one type of meeting held by public bodies. To avoid confusion regarding whether any meeting or only hearings held by the commission relating to a complaint or investigation may be closed, the pertinent language in Sections 11 and 49 might be made more consistent. For example, the word “meetings” in Section 49 could be changed to “hearings.”

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo. Administration of the Campaign Reporting Act, Voter Action Act, Lobbyist Regulation Act, Governmental Conduct Act, Financial Disclosure Act and Gift Act will remain with the secretary of state.

AMENDMENTS

See discussion above under “Technical Issues.”