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Starting a Federal Regional Commission or Authority

The federal regional commissions and authorities are seven congressionally-chartered, federal-state partnerships that were developed to address economic distress in targeted geographic regions. With congressional authorization, new regional commissions could be created in areas of the country not currently serviced. This In Focus addresses past and anticipated future congressional interest into the issues and processes involved in starting a federal regional commission based on existing models.

Current Commissions and Authorities

As of December 2019, seven federal regional commissions have been authorized by Congress. (Although some are designated as “authorities,” this In Focus will refer to all of them collectively as “commissions.”) Four are currently active: the Appalachian Regional Commission (ARC); the Delta Regional Authority (DRA); the Denali Commission; and the Northern Border Regional Commission (NBRC). Three were authorized but are inactive: the Northern Great Plains Regional Authority (NGPRA); the Southeast Crescent Regional Commission (SCRC); and the Southwest Border Regional Commission (SBRC). The active commissions engage in economic development activities in their service areas with funding from annual congressional appropriations.

Structural Features

Common Structures

While the authorized federal regional commissions have individual distinguishing features, they all include a structure broadly modeled after the Appalachian Regional Commission, which was established by Congress in 1965 (40 U.S.C. §§14101-14704). The commission structure is comprised of a federal co-chair and the state governors of member states or their designated representative (of which one serves as state co-chair). The commission is supplemented by professional staff to carry out organizational activities. While largely considered independent federal agencies, most commission members and staff are not federal employees. The main exception is the federal co-chair, that co-chair’s alternate, and that co-chair’s direct staff. However, a commission may adopt certain federal personnel practices. For example, the ARC pegs its salary grades to the Office of Personnel Management’s General Schedule, and former federal employees may remain in the federal retirement system.

A new federal regional commission may use a similar structure to the one established for the ARC, which was broadly replicated in the other commissions. However, this basic structure has been adapted to the circumstances and needs of the region in question.

Structural Exceptions

While the prevailing structure is broadly apparent among the federal regional commissions, exceptions and certain novelties are also evident. For example, the ARC’s authorizing statute requires state governors to serve as ARC members and has no allowance for governors to designate a representative (although an alternate may be allowed in extenuating circumstances). By contrast, the other active regional commissions allow for the member state governors to appoint designated representatives to serve in their stead.

As a single-state commission, the Denali Commission features several structural exceptions. Alongside the federal co-chair, the commission is comprised of the state governor (who is state co-chair) as well as five other members: the University of Alaska president; the Alaska Municipal League president; the Alaska Federation of Natives president; the Alaska State AFL-CIO president; and the Associated General Contractors of Alaska president. The Denali Commission’s federal co-chair is appointed by the Secretary of Commerce, while the federal co-chairs of other commissions are appointed by the President and require confirmation by the Senate. The Denali Commission’s inclusion of non-gubernatorial membership is also a feature of the multi-state Northern Great Plains Regional Authority. Though inactive, the NGPRA consisted of the federal co-chair, the state governors, as well as a Native American tribal co-chair. The NGPRA also used a 501(c)(3) organization as a resource for implementation.

A new federal regional commission may share the existing commissions’ basic structures while including features to represent certain regional economic, social, cultural, or historical characteristics. Such an approach could also be adapted to programmatic intent; for example, emphases on certain industries, types of economic development (such as infrastructure or workforce development), or other policy priorities, like energy transition or conservation.

Authorization and Establishment Process

Regional Consensus and Demand

While chartered by Congress, federal regional commissions are rooted in the states and localities they represent. Prior to their statutory creation, all federal regional commissions were preceded by state, local, and/or congressional expressions of support. The ARC, for example, was founded in response to initiatives from Appalachian regional governors. Those efforts led to presidential and congressional legislation, which resulted in a study commission and the eventual creation of the ARC in 1965. All of the federal regional commissions were founded after

long-term consensus-driven efforts in the states and regions to demonstrate both need and demand for their creation.

Legislation and Authorization

Once the concept for a federal regional commission has gained traction regionally, it may then be the subject of congressional hearings or legislation. Such deliberations may last for years, as the case for the federal regional commission is gradually established and support is cultivated in the relevant committees (e.g., the House Transportation and Infrastructure Committee, the Senate Environment and Public Works Committee, and the respective appropriations committees).

For example, SCRC legislation was first introduced in 1994, and grassroots initiatives pushed the concept forward until its 2008 authorization. Similarly, the SBRC's 2008 authorization was preceded by a 1999 executive order, and subsequent legislation. The NBRC is notable in that it was proposed only about a year before authorization, but it may have benefited from being passed with the SBRC and SCRC. Once a critical mass of support is achieved, precedent suggests that the authorizing legislation is likely to be included within omnibus legislation, such as the conventionally quadrennial farm bills—the 2008 farm bill authorized the NBRC, the SCRC, and the SBRC—or consolidated appropriations acts.

Appropriations and Funding

Although the founding legislation may authorize appropriations, actual funding awaits approval as part of an appropriations bill. A lack of appropriations may prevent the entity from beginning operations and any planned activities. In recent years, new federal regional commissions have received appropriations in the low millions of dollars. The Northern Border Regional Commission, the newest of the four active commissions, was authorized for up to \$30 million in annual funding when it was created in FY2008 (P.L. 110-234), but received appropriations for \$1.5 million in FY2010 (P.L. 111-85). That number held steady until FY2014, when it was appropriated \$5 million, and gradually increased since then to \$20 million for FY2019. The Northern Great Plains Regional Authority, which is inactive, received an appropriation once for \$1.5 million in FY2004. As of FY2019, the Southern Crescent Regional Commission has received annual appropriations for \$250,000 each year since FY2008.

While federal appropriations fund all the activities of the federal regional commissions and authorities, it is customary for the federal government and the member states to share administrative expenses. Of the authorized federal regional commissions, only the Denali Commission is entirely funded by the federal government, although the State of Alaska does contribute in other ways. For a proposed commission, the states' willingness to share administrative expenses may evince their financial commitment to the endeavor.

Federal Co-Chair Appointment

After appropriations have been secured to begin operations, the entity's launch may be stymied by other operational

factors. The appointment of a federal co-chair, unless otherwise provided, is essential for a federal regional commission's operations. For example, the SCRC has consistently received appropriations, but has been unable to begin its operations because no federal co-chair has been appointed by the president. Alternative provisions could be enacted to avoid or surmount such an issue, such as allowing the federal co-chair to be appointed by a cabinet official, based on the model of the Denali Commission, or to provide for the commission to be able to convene in the absence of an appointed federal co-chair.

Scope and Nature of Activities

While appropriations fund the activities for the federal regional commissions, the scope and nature of each commission's activities may differ. The Denali Commission, for example, largely focuses on energy storage and infrastructure and special infrastructure protection programs, reflecting the specific needs of its service area. The ARC, DRA, and NBRC engage in a broader spectrum of economic development activities, but also feature specialized funding priorities. One example is the ARC's POWER Initiative, which seeks to address economic dislocation in coal industry-dependent communities. The ARC, DRA, and NBRC also provide financial support to networks of local development districts (LDDs), which are multi-county economic development organizations that assess projects and advise the commissions on local priorities and issues.

The scope of a commission's economic development activities are also determined by their statutorily-delineated service areas. These service areas are the primary beneficiaries of the commissions' activities, so only organizations based in these areas can receive funding (with some minor exceptions). The service areas can only be modified or amended through legislation.

In addition, the four active commissions consider project applications based on county-level designations of distress. The ARC designates counties along five ascending classes of distress; the NBRC uses three; the DRA designates counties as either distressed or not; as does the Denali Commission. Along with other criteria, distress levels can influence funding decisions, and—in the case of the ARC and the NBRC—may also determine grant match levels.

Additional Considerations

There is no requirement that a new federal regional commission follow previous or existing models. However, their commonalities provide an institutional blueprint in statute and in practice. At the same time, the differences in commission charters suggest that new commissions could incorporate structural or programmatic innovations to accomplish particular policy goals. While there are other options for federal economic development, the federal regional commissions represent a relatively flexible model that integrates federal, state, and local input in service of regional economic and community development priorities.

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