HB 18-1428

Legislative Council Staff
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FISCAL NOTE

Drafting Number:	LLS 18-0883	**Date:**	May 2, 2018
Prime Sponsors:	Rep. Becker K. Sen. Cooke	**Bill Status:**	House Transportation
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Bill Topic: AUTHORIZE UTILITY COMMUNITY COLLABORATION CONTRACT

Summary of Fiscal Impact:

- ☒ State Revenue
- ☒ State Expenditure
- ☐ State Transfer
- ☒ TABOR Refund
- ☒ Local Government
- ☐ Statutory Public Entity

The bill authorizes local governments to enter into an energy and innovation collaboration agreement with an investor-owned utility and extends a related property tax exemption. It will increase state revenue and expenditures on an ongoing basis, and decrease revenue to local governments.

Appropriation Summary: For FY 2018-19, the bill requires an appropriation of $67,498 to the Department of Regulatory Agencies.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under HB 18-1428

		FY 2018-19	FY 2019-20	FY 2021-22
Revenue	General Fund	$2,025	$1,884	$25,267
	Cash Funds	$67,498	$62,795	$62,795
	Total	**$69,523**	**$64,679**	**$88,602**
Expenditures	General Fund	-	-	$825,442
	Cash Funds	$67,498	$62,795	$62,795
	Centrally Appropriated	9,011	$9,011	$9,011
	Total	**$76,509**	**$71,806**	**$897,248**
	Total FTE	**0.6 FTE**	**0.6 FTE**	**0.6 FTE**
Transfers		-	-	-
TABOR Refund	General Fund	$69,523	$64,679	-

Summary of Legislation

This bill authorizes the creation of an energy and innovation collaboration agreement between an investor-owned utility and the government of a city, county, town, or consolidated city and county served by that utility. This agreement is subject to approval by the Public Utilities Commission (PUC) in the Department of Regulatory Agencies (DORA), which is directed to ensure that safe and reliable service is maintained and that the utility's costs of complying with the agreement are paid for by the community and not imposed on other customers of the utility.

In addition, the bill postpones the expiration of an existing property tax exemption on community solar gardens (CSGs) by six years, from 2021 to 2027. The exemption applies to the share of CSG property used to generate electricity for residential, governmental, or tax-exempt customers. Assessors value this property by determining the generating capacity of the CSG and multiplying by the cost per kilowatt of alternating current electricity as published by the Division of Property Taxation in the Department of Local Affairs.

Background

According to Xcel Energy's 2016 Renewable Energy Standard Report, there are 9 companies operating 77 CSG sites in 17 counties in the state.

State Revenue

Beginning in FY 2018-19, the bill will increase state revenue to the Fixed Utility Fund and to the General Fund to cover PUC expenditures. Beginning in FY 2021-22, the bill will increase state corporate income tax revenue to the General Fund. These revenue increases are discussed below.

Fixed Utility Fund. The bill will increase state revenue to the Fixed Utility Fund by $67,498 in FY 2018-19 and $62,795 in FY 2019-20 and ongoing. It will also increase state revenue to the General Fund by $2,025 in FY 2018-19 and $1,884 in FY 2019-20. The administrative costs incurred by the PUC as a result of the bill are paid from the Fixed Utility Fund (FUF). The FUF receives an annual assessment on the state's regulated utilities. Whenever additional expenses are incurred against the fund, the assessment must be raised to increase revenue to cover these expenses, plus credit 3 percent to the General Fund.

Federal taxable income. Property taxes are deducted from federal taxable income, which is the starting point for calculating Colorado income taxes. The reduction in property taxes from this bill reduces the deduction CSGs will be allowed to take, increasing their Colorado income tax liability. An estimated one-third of aggregate property tax liability is currently deducted from the taxable income of owners. The revenue impact is calculated by applying the state's 4.63 percent income tax rate to the reduced property tax liability. The smaller deduction will increase income tax revenue by $23,383 in FY 2021-22, and $46,766 in FY 2022-23. The FY 2021-22 revenue impact is based on a half-year property tax impact to account for accrual accounting of income tax.

TABOR Refund

The bill increases state revenue from fees in FY 2018-19 and FY 2019-20, which will increase the amount of money required to be refunded under TABOR in those years. Since the bill primarily increases the TABOR refund obligation with a minimal corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will decrease by a similar amount.

In future years, the bill will increase state revenue from corporate income tax collections. State revenue subject to TABOR is not estimated for years beyond FY 2019-20.

State Expenditures

Beginning in FY 2018-19, the bill will increase state expenditures for the PUC in DORA from the Fixed Utility Fund by the amounts shown in Table 2 and discussed below. Beginning in FY 2021-22, the bill will increase state General Fund expenditures by approximately $825,000 through FY 2027-28.

Table 2
Expenditures Under HB 18-1428

	FY 2018-19	**FY 2019-20**
Department of Regulatory Agencies		
Personal Services	$46,225	$46,225
Operating Expenses and Capital Outlay Costs	$5,273	$570
Consulting Services	$16,000	$16,000
Centrally Appropriated Costs*	$9,011	$9,011
Total Cost	**$76,509**	**$71,806**
Total FTE	**0.6 FTE**	**0.6 FTE**

** Centrally appropriated costs are not included in the bill's appropriation.*

Public Utilities Commission. Beginning in FY 2018-19, the PUC will require additional resources to implement the bill, assuming one joint application is filed per year. These resources consist of 0.3 FTE Rate and Financial Analyst; 0.2 FTE Administrative Law Judge; and 0.1 FTE Hearings Reporter. Additionally, the PUC will hire consultants with expertise in legal and governmental affairs, estimated to cost $100 per hour for 100 hours per year.

School Finance. As a result of exempting CSG-generated electricity from property tax, and based on 2017 average school operating mill levies for each county, the reduction in property tax revenue for school finance will require additional state aid of approximately $825,442 beginning in FY 2021-22. An estimated total of $36.6 million in assessed value in 17 counties would be lost through this exemption for CSGs currently online.

Department of Local Affairs, Division of Property Taxation. The division will have an ongoing minimal workload impact to maintain the personal property declaration schedule specific to CSGs and process appeals. These tasks can be accomplished with existing appropriations.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be $9,011 in FY 2018-19 and FY 2019-20.

Local Government

Beginning in property tax year 2021, the bill decreases property tax revenue by exempting the share of CSG property used to generate electricity for residential, governmental, and tax-exempt customers. This is expected to reduce total property tax revenue by approximately $3.1 million annually beginning in FY 2021-22.

Local non-school finance property taxes are estimated to decline by approximately $2.2 million per year beginning in FY 2021-22. This reduction will impact municipalities, counties, special districts, and school districts, and is not backfilled by state aid. However, property taxpayers in affected jurisdictions may experience an increase in mill levies to pay for any outstanding bonded debt or school district property tax overrides that were previously approved by voters.

School District Impact

This bill is estimated to reduce the local share of funding for public schools by approximately $825,442 per year from FY 2021-22 through FY 2027-28. This reduction will be replaced by state aid, as discussed in the State Expenditures section.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature, and applies to agreements entered into on or after the effective date.

State Appropriations

In FY 2018-19, the bill requires a cash fund appropriation of $67,498 from the Fixed Utility Fund to the Department of Regulatory Agencies and an allocation of 0.6 FTE.

State and Local Government Contacts

Counties	Information Technology	Law
Municipalities	Property Tax	Regulatory Agencies
School Districts	Special Districts	
