



**Colorado  
Legislative  
Council  
Staff**

**SB16-061**

**FISCAL NOTE**

**FISCAL IMPACT:**  State  Local  Statutory Public Entity  Conditional  No Fiscal Impact

**Drafting Number:** LLS 16-0567  
**Prime Sponsor(s):** Sen. Cooke; Sonnenberg

**Date:** February 4, 2016  
**Bill Status:** Senate Agriculture  
**Fiscal Analyst:** Marc Carey (303-866-4102)

**BILL TOPIC:** RATEPAYER PROTECTION CARBON DIOXIDE INCREASED COST

<b>Fiscal Impact Summary</b>	<b>FY 2016-2017</b>	<b>FY 2017-2018</b>
<b>State Transfer</b>	<b>\$0</b>	<b>\$0</b>
Ratepayer Protection Fund	at least 5,477,000	at least \$5,163,467
Stationary Sources Control Fund	at least (5,477,000)	at least (5,163,467)
<b>State Expenditures</b>	<b>\$193,517</b>	<b>\$184,728</b>
Cash Funds	164,310	154,904
Centrally Appropriated Costs	29,207	29,824
<b>TABOR Impact</b>	\$169,392	\$159,695
<b>FTE Position Change</b>	2.0 FTE	2.0 FTE
<b>Appropriation Required:</b> \$164,310 - Department of Regulatory Agencies (FY 2016-17)		
<b>Future Year Impacts:</b> Potential state revenue and expenditure increase.		

**Summary of Legislation**

This bill requires the Colorado Public Utilities Commission (PUC) in the Department of Regulatory Agencies (DORA) to create a Ratepayer Protection program. The program is created to address the potential increased costs of compliance with the federal Environmental Protection Agency's (EPA) Clean Power Plan (CPP). The program will be designed to cover these costs through reimbursement from the newly created Ratepayer Protection Fund rather than by utility customers. The fund is to be financed by annual appropriations from the existing Stationary Sources Control Fund (SSCF).

**Background**

**Clean Power Plan — EPA.** The EPA published the final federal performance standards for carbon emissions from electric utilities on October 23, 2015. Under its authority in current law, the Department of Public Health and Environment's (CDPHE) Air Pollution Control Division (APCD) will draft the SIP to implement the federal standards. The Air Quality Control Commission (AQCC),

which is charged with developing and maintaining a comprehensive air pollution prevention and control program for the state, will consider the CDPHE's SIP and any other proposals received from the public before the CDPHE submits the final SIP to the EPA. Under the federal Clean Air Act, the EPA may prescribe a federal implementation plan for Colorado if the CDPHE does not submit a SIP or if the SIP is not federally approved.

**Clean Air — Clean Jobs Act.** In anticipation of emission requirements for electric utilities under the federal Clean Air Act, House Bill 10-1365 enacted the Clean Air-Clean Jobs Act, which required that, by August 15, 2010, all rate-regulated utilities that own or operate coal-fired electric generating units—Public Service Company of Colorado, aka Xcel Energy, and Black Hills Energy—submit an emissions reduction plan for those units to the PUC. HB 10-1365 required that the emissions reduction plan be fully implemented by December 31, 2017.

**Cooperative Electric Associations (CEAs).** CEAs are nonprofit electric utility companies that are owned and controlled by their members. The PUC does not review and approve integrated resource plans of CEAs because all CEAs in Colorado have exempted themselves from PUC regulation since early in the 1980s. Several state laws, however, continue to regulate CEAs, including how associations may adjust electric rates, conduct board elections, provide access to association records, and conduct other activities.

**Stationary Sources Control Fund (SSCF).** Money from the SSCF covers the direct and indirect costs incurred by the Air Pollution Control Division (APCD) for developing and administering the state's air pollution prevention control program. Money in the fund comes from various fees from air pollution sources in Colorado, including utilities and a wide variety of other industries. Programmatic responsibilities for the APCD include issuing permits, conducting inspections, developing state implementation plans (SIPs) and promulgating regulations to ensure that the program meets federal requirements.

## **State Transfers**

The bill requires that administrative expenses for the PUC be paid from the newly created Ratepayer Protection Fund and specifies that these expenses may not exceed 3 percent of the annual average fund balance. Sufficient money must be transferred from the SSCF to cover both remittances and administrative expenses.

The administrative expenses identified in the State Expenditure section below imply transfers from the SSCF to the Ratepayer Protection Fund of at least \$5.5 million in FY 2016-17 and \$5.2 million in FY 2017-18.

Additional transfers will likely be required once remittance amounts are known.

## **State Expenditures**

**This bill will increase expenditures in DORA by \$193,517 and 2.0 FTE in FY 2016-17 and \$184,728 and 2.0 FTE FY 2017-18.**

**Public Utilities Commission — DORA.** As part of the newly created Ratepayer Protection program, the PUC is required to periodically assess the ratepayer impacts for compliance with the CPP. Under its current authority, the PUC regulates the two rate-regulated, investor-owned utilities in Colorado. The PUC, however, has no regulatory authority over electric generation and

transmission cooperatives, CEAs, state power authorities, or municipal utilities. This bill requires the PUC to assess the rate impacts of CPP compliance of all Colorado utilities with generation capacity subject to the CPP. It is therefore expected that the PUC will need to hire one Rate Financial Analyst II FTE and one Professional Engineer II FTE to review the detailed electric resource expansion models of these entities, the resulting cost data, and the impacts on ratepayers.

<b>Table 1. PUC Expenditures Under Senate Bill 16-061</b>		
<b>Cost Components</b>	<b>FY 2016-17</b>	<b>FY 2017-18</b>
Personal Services	\$153,004	\$153,004
FTE	2.0	2.0
Operating Expenses and Capital Outlay Costs	11,306	1,900
Centrally Appropriated Costs*	29,207	29,824
<b>TOTAL</b>	<b>\$193,517</b>	<b>\$184,728</b>

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

**Air Pollution Control Division — CDPHE.** The bill requires the APCD to work with utilities, PUC staff and other stakeholders to estimate the costs of CPP compliance. Because the CPP provides states with flexibility on how to meet the CPP carbon dioxide emission reduction goals, both compliance strategies and the procedure for estimating the associated compliance costs are not yet known. Should the APCD require additional resources to estimate compliance costs, this fiscal note assumes the request will be addressed through the annual budget process.

**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. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 2.

<b>Table 2. Centrally Appropriated Costs Under Senate Bill 16-061</b>		
<b>Cost Components</b>	<b>FY 2016-17</b>	<b>FY 2017-18</b>
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$16,114	\$16,114
Supplemental Employee Retirement Payments	13,093	13,710
<b>TOTAL</b>	<b>\$29,207</b>	<b>\$29,824</b>

### Local Government Impact

Several municipalities own and operate electric generation units subject to CPP regulations. This fiscal note assumes these local governments would be eligible for remittances, even though the utilities are not rate-regulated by the PUC. Thus, these local governments would incur costs in calculating the additional costs of CPP compliance.

### Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his

signature.

### **State Appropriations**

For FY 2016-17, the DORA requires a cash fund appropriation of \$164,310 from the Ratepayer Protection Fund and an allocation of 2.0 FTE

### **Technical Notes**

The bill requires the PUC to administer the newly created Ratepayer Protection program. Administrative costs are to be covered with money credited to the newly created Ratepayer Protection fund but may not exceed 3 percent of the annual average fund balance. While the administrative costs identified in this fiscal note will require an annual average fund balance of at least \$5.5 million in FY 2016-17 and \$5.2 million in FY 2017-18, the average annual balance of Ratepayer Protection fund is likely to be at or near zero as money in the fund must be remitted quarterly to reimburse utilities for CPP compliance costs. If the fund balance is insufficient to cover PUC administrative costs, the PUC will require a General Fund appropriation.

In addition, the bill requires the General Assembly to annually appropriate money from the SSCF to the Ratepayer Protection fund to enable the PUC to make the required remittances. Under current law, the SSCF supports about \$13 million of APCD regulatory activities. Any budgetary deficit left from a drawdown of the SSCF would need to be backfilled with a General Fund appropriation.

### **State and Local Government Contacts**

Regulatory Agencies  
Information Technology

Public Health and Environment