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**FINAL
FISCAL NOTE**

Drafting Number: LLS 20-0252
Prime Sponsors: Rep. Hooton

Date: October 6, 2020
Bill Status: Deemed Lost
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Bill Topic: PUC STUDY OF COMMUNITY CHOICE ENERGY

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill would have required the Public Utilities Commission to study the implementation of community choice energy in Colorado through a third-party feasibility study and an investigatory proceeding. The bill would have increased state expenditures in FY 2020-21 only.

Appropriation Summary: For FY 2020-21, the bill would have required an appropriation of \$688,159 to the Department of Regulatory Agencies.

Fiscal Note Status: The fiscal note reflects the introduced bill, as amended by the House Energy and Environment Committee. The bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

**Table 1
State Fiscal Impacts Under HB 20-1064**

	FY 2020-21	FY 2021-22
Revenue	-	-
Expenditures		
Cash Funds	up to \$688,159	-
Centrally Appropriated	\$36,471	-
Total	up to \$724,630	-
Total FTE	2.0 FTE	-
Transfers	-	-
TABOR Refund	-	-

Summary of Legislation

The bill directs the Public Utilities Commission (PUC) in the Department of Regulatory Agencies (DORA) to evaluate the viability of the wholesale, opt-out model of community choice energy (CCE) in Colorado. CCE is defined as a mechanism that allows cities, counties, or groups of cities and counties, to combine their purchasing power and choose alternative electricity suppliers while the incumbent utility continues to own and operate the transmission and distribution system. The PUC is directed to study CCE through a third-party feasibility study and an investigatory proceeding.

Feasibility study. The PUC is directed to oversee a study on the financial feasibility of allowing CCE in Colorado. The commission must select a qualified agent to perform the study and collect data necessary to conduct the study from investor-owned electric utilities. In addition to other components listed in the bill, the study must estimate any exit fees that communities forming a CCE authority would be required to pay their existing electric utilities and rate analysis to determine the potential for CCE to be cost-competitive.

Investigatory proceeding. The PUC must open an investigatory docket by September 1, 2020, to consider the regulatory and legal implications of CCE legislation and provide recommendations to the General Assembly. In the proceeding, the PUC must accept testimony and documentation from a broad range of stakeholders, as specified in the bill. Among other subjects outlined in the bill, the topics explored in the docket may include:

- whether the PUC requires additional statutory authority to conduct a rule-making concerning the creation of a CCE authority in Colorado;
- the appropriate scope of regulatory oversight of CCE operations, on a scale ranging from comprehensive to minimal;
- which aspects of current or anticipated investor-owned electric utility regulation by the PUC should apply to CCE authorities as well;
- the appropriate considerations for establishing reasonable exit fees;
- conditions for customer opt-out of CCE;
- regulatory and legal issues that have arisen in other states that have adopted this model;
- whether an investor-owned utility should also be the provider of last resort for electricity for customers who have opted out of CCE;
- the appropriate process for approval of CCE on behalf of customers within a jurisdiction; and
- what regulatory oversight should apply to resource procurement for CCE authorities.

The PUC must submit a report summarizing its findings and recommendations from the feasibility study and investigatory proceeding to the energy committees of the General Assembly by June 1, 2021.

State Revenue

The PUC is currently assessing the statutory maximum 0.25 percent fee on the gross revenues of regulated electric and natural gas utilities and cannot increase the assessment beyond this cap. While it is expected that there are sufficient resources in the Fixed Utilities Fund at the present time to support the expenditures identified in the fiscal note, any increased spending from the fund increases the likelihood that the General Assembly will be required to increase or remove the statutory fee cap sooner or appropriate funds from other sources, such as the General Fund, to cover PUC costs in the future.

State Expenditures

For FY 2020-21 only, the bill increases state cash fund expenditures in DORA by up to \$724,630 and 2.0 FTE. These expenditures, which are paid from the Fixed Utilities Fund, are shown in Table 2 and described below.

**Table 2
 State Expenditures Under HB 20-1064**

	FY 2020-21	FY 2021-22
Department of Regulatory Agencies		
Personal Services	\$183,059	-
Operating Expenses	\$2,700	-
Capital Outlay	\$2,400	-
Financial Feasibility Study	up to \$500,000	-
Centrally Appropriated Costs*	\$36,471	-
Total Cost	up to \$724,630	-
Total FTE	2.0 FTE	-

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

Department of Regulatory Agencies. Based on a recent comparable study, contracting with a consultant for the financial feasibility study is estimated to cost up to \$500,000. This cost is an estimate only; the actual cost will be determined through the competitive solicitation process. In order to accomplish the study, DORA will require one staff member to develop the scope of the study and request for proposals, evaluate proposals, gather data from utilities for use in the study, and assist with preparation of the PUC's report to the General Assembly. An additional staff member is required to complete the investigatory proceeding, which includes advising and assisting the PUC throughout the process and developing the report and recommendations for the General Assembly.

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 \$36,471 in FY 2020-21.

Effective Date

The bill was deemed lost on June 16, 2020.

State Appropriations

For FY 2020-21, the bill requires an appropriation of \$688,159 to DORA from the Fixed Utilities Fund, and 2.0 FTE.

State and Local Government Contacts

Energy Office

Regulatory Agencies