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Fiscal Note

Drafting Number: LLS 21-0784 Date: May 20, 2021
Prime Sponsors: Sen. Hansen; Fenberg Bill Status: Senate Trans. & Energy
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Bill Topic: MEASURES TO MODERNIZE THE PUBLIC UTILITIES COMMISSION

- Summary of Fiscal Impact:
[X] State Revenue [] TABOR Refund
[X] State Expenditure [] Local Government
[] State Transfer [] Statutory Public Entity

This bill makes various statutory changes to the operation of the Public Utilities Commission, and removes the existing cap on annual fees collected from regulated public utilities. It increases state revenue and expenditures beginning in FY 2021-22.

Appropriation Summary: No appropriation is required.

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

Table 1
State Fiscal Impacts Under SB 21-272

Table with 4 columns: Category, Cash Funds, Budget Year FY 2021-22, and Out Year FY 2022-23. Rows include Revenue, Expenditures, Transfers, and TABOR Refund.

Summary of Legislation

The bill makes various changes to the statutory operations of the Public Utilities Commission (PUC) in the Department of Regulatory Agencies. Specifically, the bill:

- authorizes the allocation of up to \$250,000 per year of the money the PUC receives from the Fixed Utility Fund for outside consultants and experts;
- requires the disclosure of any financial relationships between intervenors in a commission matter;
- directs the PUC to identify disproportionately impacted communities and adopt rules to improve equity, minimize impacts, and prioritize benefits to these communities;
- directs the PUC to adopt rules requiring qualifying regulated utilities subject to the renewable energy standards to retire renewable energy credits in a manner that benefits cities, counties, and businesses in Colorado and is consistent with the state's clean energy and climate goals;
- directs the PUC to adopt rules establishing fixed rates for net metering credits provide to community solar garden subscribers;
- requires investor-owned electric utilities to submit net present value of revenue requirement projections with respect to the retirement of electric generating facilities with and without the inclusion of Colorado energy impact bonds;
- requires PUC to include the social cost of carbon with regard to a portfolio's net present value of revenue requirements when approving a resource plan;
- requires regulated public utilities that use resource planning software to provide PUC staff with licenses and model assumptions; and
- expands the time for the PUC to issue a decision on applications that are not accompanied by pre-filed testimony and exhibits from 210 to 250 days after the application is deemed complete.

Under current law, the annual fee collected from each regulated public utility is capped at 0.25 percent of the public utility's gross intrastate utility operating revenue for the preceding calendar year, except for telephone corporations which are capped at 0.2 percent. The bill removes the cap on annual fees collected from regulated public utilities.

Background

The Taxation Division in the Department of Revenue collects reports from public utilities subject to a fee that includes gross intrastate utility operating revenues. Based on the fee percentage provided by the PUC, the Department of Revenue notifies public utilities of their calculated fees and then collects and administers the fee on a quarterly basis and distributes the collection to the PUC. Approximately 35 public utilities that are not telephone providers pay fees which are deposited into the Fixed Utility Fund. Approximately 206 telephone providers pay fees which are deposited into the Telecommunications Utility Fund. The PUC is currently assessing the statutory maximum rate of 0.25 percent of the gross revenues of regulated public utilities.

State Revenue

Beginning in FY 2021-22, this bill will increase state cash fund revenue to the Fixed Utility Fund by eliminating the cap on annual fees collected from regulated public utilities. Any adjustment to the fee above the current cap will be set administratively by the PUC. Based on the projected costs of currently pending legislation affecting the PUC, the fiscal note estimates that the PUC will increase fee revenue collections by at least \$1.9 million in FY 2021-22 and at least \$2.6 million in FY 2022-23. The fiscal notes for the bills listed in Table 2 currently indicate a General Fund impact, rather than costs paid from the Fixed Utility Fund, due to the fee currently being set at its maximum amount; if this bill is enacted, it is assumed those bills will be funded through the Fixed Utility Fund. The fiscal note cannot estimate any other increase that the PUC may consider due to other factors. Any fee increase will be paid by regulated utilities in proportion to their share of gross intrastate utility revenue.

**Table 2
 Pending 2021 Legislation with PUC Utility Regulatory Costs***

| Bill No. | Bill Topic | FY 2021-22 | FY 2022-23 |
|-------------------------|--|--------------------|--------------------|
| HB21-1269 | PUC Study of Community Choice Energy | \$61,733 | \$54,796 |
| SB21-072 | PUC Modernize Electric Transmission Infrastructure | \$500,000 | \$500,000 |
| SB21-103 | Sunset Office of Consumer Counsel | \$553,071 | \$674,874 |
| SB21-108 | PUC Gas Utility Safety Inspection Authority | \$524,642 | \$359,260 |
| SB21-246 | Electric Utilities Promote Beneficial Electrification | \$212,081 | \$705,799 |
| SB21-264 | Adopt Programs Reduce Greenhouse Gas Emissions Utilities | \$118,940 | \$348,939 |
| FY 2021-22 Total | | \$1,970,467 | \$2,643,668 |

* Expenditures in these bills are currently reflected as General Fund expenditures in fiscal notes, and can be paid for instead by the Fixed Utility Fund if Senate Bill 21-272 is enacted.

State Expenditures

The various provisions of the bill will increase PUC workload; however, no change in appropriations is required, as many of the changes in the bill codify current initiatives or can be accomplished as part of existing proceedings. For example, the PUC has already begun to incorporate the identification and prioritization of disproportionately impacted communities to improve equity in proceedings. The PUC's upcoming rulemaking can accommodate the modifications to the retirement of renewable energy credits and the establishment of fixed rates for net metering credits to community solar garden subscribers. Other provisions in the bill concerning the inclusion of energy impact bonds in net present value of revenue requirement projections, and including the social cost of carbon dioxide with regard to a portfolio's net present value of revenue requirements can be accomplished within existing appropriations. Finally, the fiscal note assumes that the bill's provision allowing the PUC to expend up to \$250,000 of fees to the Fixed Utility Fund on outside consultants will not result in increased expenditures, but rather authorizes the use of cash funds in this way.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State and Local Government Contacts

Colorado Energy Office
Regulatory Agencies

Information Technology
Revenue

Law