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Final Fiscal Note

Drafting Number: LLS 21-0784 Date: September 8, 2021
Prime Sponsors: Sen. Hansen; Fenberg Bill Status: Signed into Law
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Bill Topic: MEASURES TO MODERNIZE THE PUC

- Summary of Fiscal Impact:
[X] State Revenue [X] 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 increases the 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 to implement SB 21-272; however, the bill includes appropriations to implement other bills that are funded from the Fixed Utility Fund.

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

Table 1
State Fiscal Impacts Under SB 21-272

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

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 timely disclosure of any financial relationships between intervenors and regulated utilities 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;
- 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;
- 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; and
- allows utilities to apply for approval to issue securitized bonds related to mitigating the effects of extreme weather, wildfires, climate change, or other hazards,

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 increases the cap on annual fees collected from regulated public utilities to 0.4 percent for telephone corporations and 0.45 percent for all other 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 increasing 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, and is subject to TABOR. Based on the projected costs of legislation affecting the PUC that was enacted during the 2021 session, the fiscal note estimates that the PUC will increase fee revenue collections by at least \$2.1 million in FY 2021-22 and at least \$2.7 million in FY 2022-23. These bills are listed in Table 2 below. 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
Enacted 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
SB21-261	PUC Encourage Renewable Energy Generation	\$117,774	\$120,031
SB21-264	Adopt Programs Reduce Greenhouse Gas Emissions Utilities	\$118,940	\$348,939
FY 2021-22 Total		\$2,088,241	\$2,763,699

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.

TABOR refunds. The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by \$2.1 million for FY 2021-22 and \$2.8 million for FY 2022-23. TABOR refunds are paid from the General Fund. This estimate is based on the June 2021 LCS revenue forecast, which incorporates the revenue impacts of bills passed during the 2021 session. A forecast of state revenue subject to TABOR is not available beyond FY 2022-23.

Federal ARPA funds. This bill increases state revenue, which may impact the state's flexibility in spending federal American Rescue Plan Act (ARPA) funds. For more information, see the LCS memo, titled "Legislative Changes and Flexibility in Use of American Rescue Plan Funds," available online at: <https://leg.colorado.gov/node/2211881>.

State Appropriations

The bill includes several appropriations from the Fixed Utilities Fund to fund other legislation enacted during the 2021 session using money collected under the increased fee cap under this bill. In some instances, the bill also removes the General Fund appropriation included in those measures. Specifically, this bill:

- decreases the General Fund appropriation to the Department of Regulatory Agencies (DORA) made in House Bill 21-1269 by \$48,391
- appropriates \$48,391 from the Fixed Utility Fund to DORA to implement House Bill 21-1269;
- decreases the General Fund appropriation to DORA made in Senate Bill 21-108 by \$423,448;
- appropriates \$423,448 from the Fixed Utility Fund to DORA to implement Senate Bill 21-108, including reappropriated funds of \$53,170 to the Department of Law; and
- appropriates \$500,000 from the Fixed Utility Fund to DORA to implement Senate Bill 21-072.

Effective Date

The bill was signed into law by the Governor and took effect on June 10, 2021.

State and Local Government Contacts

Colorado Energy Office
Regulatory Agencies

Information Technology
Revenue

Law