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Revised Fiscal Note

(replaces fiscal note dated May 11, 2021)

Drafting Number:	LLS 21-0250	Date:	May 24, 2021
Prime Sponsors:	Sen. Fenberg; Priola Rep. Valdez A.; Amabile	Bill Status:	House Energy & Environment
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Bill Topic: PUC ENCOURAGE RENEWABLE ENERGY GENERATION

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

The bill makes various changes to the renewable energy standards and the regulation of distributed generation. It increases state expenditures, and may increase local expenditures and state and local revenue, on an ongoing basis.

Appropriation Summary: For FY 2021-22, the bill requires an appropriation of \$91,488 to the Department of Regulatory Agencies.

Fiscal Note Status: This revised fiscal note reflects the reengrossed bill.

**Table 1
State Fiscal Impacts Under SB 21-261**

	Budget Year FY 2021-22	Out Year FY 2022-23
Revenue	-	-
Expenditures		
General Fund ¹	\$91,488	\$92,919
Centrally Appropriated	\$26,286	\$27,112
Total Expenditures	\$117,774	\$120,031
Total FTE	1.0 FTE	1.0 FTE
Transfers	-	-
TABOR Refund	-	-

¹ Public Utilities Commission expenditures are typically paid from the Fixed Utility Fund, which supports the Pipeline Safety Program. However, the commission is assessing the statutory maximum rate of 0.25 percent on the gross revenues of regulated electric and natural gas utilities; therefore, the fiscal note assumes that the General Fund is required to cover the costs identified in this bill. See Technical Note.

Summary of Legislation

The bill makes various changes to the renewable energy standard (RES) and the regulation of distributed generation. The bill increases an existing limitation on the size of distributed generation facilities from 120 percent to 200 percent of a customer's historical annual usage, to qualify for renewable energy credits. It also expands an existing exemption from regulation as a public utility to include persons who sell excess power from distributed generation located on property owned or leased by a customer or a master meter operator or customer served by a master meter operator (e.g. an apartment complex or mobile home park).

Master meter operators. Master meter operators are granted a limited exemption from the general requirements not to charge end users any amount above what they are billed for electricity supplied by the serving electric utility. Master meter operators are authorized to retain any rebates, refunds, rate reductions, net metering credits, or similar reductions offered by the serving utility in its net metering program, but may not charge end users more than they would have otherwise been billed by the serving utility under the applicable rate schedule.

Renewable energy standard. The bill makes various changes the RES. Specifically, the bill:

- adds and defines renewable energy storage as an eligible energy resource to meet the RES;
- narrows the requirements for biomass and small hydroelectric facilities that qualify as renewable energy resources;
- prohibits qualifying retail utilities from limiting the size of on-site retail distributed generation capacity based on past consumption, with the exception of cooperative electric associations;
- requires qualifying retail utilities to allow, and to adopt standards for the approval of, customer-owned meter collar adapters, defined in the bill, in residential installations;
- requires qualifying retail utilities to purchase energy produced from any renewable energy resource rather than exclusively solar energy resources, under the standard offer to purchase renewable energy credits;
- doubles the allowable size of on-site renewable energy installations under the standard offer, from 500 kilowatts to one megawatt;
- allows customers to carry forward monthly bill credits from distributed generation indefinitely;
- requires the PUC to determine a reasonable fixed charge for utilities to recover costs of delivering retail distributed generation to noncontiguous property; and
- defines greenhouse gas neutral with respect to electricity generated using biomass, coal mine methane, or synthetic gas.

The bill directs the Public Utilities Commission (PUC) in the Department of Regulatory Agencies (DORA) to adopt rules to accommodate the aggregation and interconnection of retail distributed generation, including the pooling of renewable generation resources under a master meter or similar arrangement, and the allocation of credits among customers on different rate schedules. The bill also directs the PUC to adopt new or amend rules that would enable landlords and tenants of multi-unit buildings to share in the production from a net metered retail distributed generation installation, taking into account Colorado's greenhouse gas emission reduction goals.

State Revenue

This bill may increase revenue to the Division of Professions and Occupations Cash Fund in DORA from fees for permit applications to install renewable energy facilities. The amount of revenue will depend on the extent to which bill drives an increase in applications and has not been estimated. This fee revenue is subject to TABOR.

The bill may increase fee revenue to the Fixed Utility Fund to cover the PUC's administrative expenses under the bill; however, the fund 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 without a change in law. See Technical Note.

State Expenditures

This bill increases expenditures in the Department of Regulatory Agencies by \$117,774 and 1.0 FTE in FY 2021-22, and \$120,031 and 1.0 FTE in FY 2022-23 and future years. These expenditures are shown in Table 2 and discussed below.

**Table 2
 State Expenditures Under SB 21-261**

Cost Components	FY 2021-22	FY 2022-23
Department of Regulatory Agencies		
Personal Services	\$83,938	\$91,569
Operating Expenses	\$1,350	\$1,350
Capital Outlay Costs	\$6,200	-
Centrally Appropriated Costs ¹	\$26,286	\$27,112
FTE – Personal Services	1.0 FTE	1.0 FTE
Total	\$117,774	\$120,031
Total FTE	1.0 FTE	1.0 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Public Utilities Commission. Beginning in FY 2021-22, the PUC requires 1.0 FTE to support litigated proceedings for each of the two investor-owned utilities to determine a reasonable charge to cover the utility's costs of delivering electricity generated by the retail distributed generation to noncontiguous properties. Staff resources are needed in the first few years following implementation, but may not be needed on an ongoing basis.

Since the PUC is scheduled to hold a RES rulemaking at the end of June 2021, the remaining changes under the bill can be accommodated within this rulemaking. Any disputes regarding meter collar adaptors are expected to be minimal and can be accomplished within existing resources. Rules regarding interconnections for distributed generation resources can be accomplished in the PUC's normal course of business.

TABOR refunds. The bill may increase state revenue subject to TABOR. For FY 2022-23, the March 2021 LCS forecast projects revenue to fall short of the TABOR limit by \$28.6 million, or 0.2 percent of the limit. If actual revenue exceeds the limit, the bill will increase the amount required to be refunded to taxpayers from the General Fund in FY 2023-24.

Federal ARPA funds. This bill may increase 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>.

Local Government

Similar to the state, to the extent that this bill results in more permit applications for renewable generation facilities, revenue and expenditures will increase for local permitting authorities. This amount has not been estimated.

Technical Note

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 without a change in law. This fiscal note estimates that resources in the Fixed Utility Fund are insufficient to support the expenditures identified in the fiscal note. If the General Assembly revises the statutory maximum fee, these and future expenses may be paid from the Fixed Utility Fund. Senate Bill 21-272 removes the cap on annual fees collected from regulated public utilities. If SB 21-272 becomes law, expenditures from this bill may be paid from the Fixed Utility Fund.

Effective Date

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

State Appropriations

For FY 2021-22, the bill requires a General Fund Appropriation of \$91,488 to the Department of Regulatory Agencies and 1.0 FTE.

State and Local Government Contacts

Colorado Energy Office	Counties
Information Technology	Law
Municipalities	Regulatory Agencies