



**Colorado
Legislative
Council
Staff**

HB17-1323

FISCAL NOTE

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

Drafting Number: LLS 17-0953 **Date:** April 18, 2017
Prime Sponsor(s): Rep. Esgar **Bill Status:** House Transportation
 Sen. Cooke; Garcia **Fiscal Analyst:** Erin Reynolds (303-866-4146)

BILL TOPIC: PUBLIC UTILITIES COMMISSION ETHICS ADD CONSUMER PROTECTION

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
State Revenue	<u>\$185,882</u>	<u>\$125,977</u>
General Fund	4,622	3,133
Cash Funds	181,260	122,845
State Expenditures	<u>\$181,260</u>	<u>\$122,845</u>
Cash Funds	161,575	103,160
Centrally Appropriated Costs	19,685	19,685
TABOR Impact	\$185,882	\$125,977
FTE Position Change	1.4 FTE	1.3 FTE
Appropriation Required: \$161,575 – Department of Regulatory Agencies (FY 2017-18).		
Future Year Impacts: Ongoing revenue and expenditure increase.		

Summary of Legislation

The bill makes several requirements of the Colorado Public Utilities Commission (PUC) in the Department of Regulatory Agencies (DORA) related to ethics.

Creation of a PUC independent ombudsman. The bill creates a position of an independent ombudsman for ethics in the PUC, to be paid from the Fixed and Telecommunications Utilities Funds (see Technical Note). The appointment must be coordinated by DORA's executive director and the Attorney General's office. The ombudsman must:

- receive complaints and comments from PUC employees and members of the public concerning PUC functions;
- report annually to DORA and the legislature related to complaint number, source, issues raised, and disposition; and
- create and administer an ethics training program for all PUC commissioners and staff.

Commissioner ethics and rule requirements. Effective July 1, 2017, a commissioner:

- may not be eligible for appointment if he or she has served as an officer or director of any PUC-regulated entity within the immediately preceding four years;
- must not have any official relationship to, or financial interest in, any PUC-regulated entity. A commissioner's office becomes vacant if he or she acquires a financial interest in a person subject to PUC regulation unless he or she divests himself of the interest within a reasonable amount of time.

Additionally, the bill requires the PUC to adopt rules that set forth PUC policy on conflicts of interest, incompatible activities, and limitations on ex parte communications, and require the meetings, conferences, and programs that commissioners and staff may attend to be consistent with these rules.

Staff training. The PUC director may authorize PUC employees to undertake training and development opportunities. Specifically, the bill references training with agencies that undertake coordinated activities with the PUC, such as the Colorado Energy Office, the Air Quality Control Commission, the Department of Public Health and Environment, and the Colorado Water Conservation Board.

Recordings and audits. The bill requires the PUC director to keep a record of PUC proceedings, and to post audio recordings and other official records as required by law online for public access. DORA's executive director may periodically request a performance audit of the PUC and its staff and operations, to be conducted by the Office of the State Auditor.

State Revenue

The bill is expected to increase state revenue **by \$185,882 in FY 2017-18 and by \$125,977 in FY 2018-19**. This amount includes the administrative costs incurred by the PUC as a result of this bill as discussed in the State Expenditures section, as well as an additional 3 percent of Fixed and Telecommunications Fund amounts, as discussed below.

Fixed Utilities Fund and Telecommunications Utilities Fund. The Fixed Utilities Fund (FUF) and the Telecommunications Utilities Fund (TUF) receive fees assessed against regulated electric, natural gas, and telecommunications utilities at a rate set annually based on the amount needed to cover applicable PUC and other utility regulation expenditures in DORA. The rate is applied to each regulated company's gross intrastate utility operating revenues, as calculated by the Department of Revenue. Whenever additional expenses are incurred against these funds, the assessment must be raised to cover these expenses, plus credit 3 percent to the General Fund as required by state law. The fiscal note has calculated the 3 percent General Fund credit at \$4,622 in FY 2017-18, and \$3,133 in FY 2018-19, assuming that 85 percent of the bill's costs will be paid by the FUF and TUF and the remainder will be paid from the Motor Carrier Cash Fund. See Technical Note.

TABOR Impact

This bill increases state revenue from fee assessments and a related General Fund credit, which will increase the amount of money required to be refunded under TABOR for FY 2017-18 and FY 2018-19. TABOR refunds are paid out of the General Fund. In years when the state

collects revenue above the TABOR limit, the increase in General Fund revenue has no net impact on the amount of money available in the General Fund for the budget, as both revenue to the General Fund and the refund obligation increase by equal amounts. However, the increase in cash fund revenue increases the TABOR refund obligation, decreasing the amount of money available in the General Fund for the budget on a dollar-for-dollar basis. In future years when the state does not collect revenue above the TABOR limit, the bill's impact on General Fund revenue will increase money available for the General Fund budget.

State Expenditures

The bill will increase expenditures in the PUC by \$181,260 and 1.4 FTE in FY 2017-18 and \$122,845 and 1.3 FTE in FY 2018-19 from the FUF, TUF, and Motor Carriers Cash Fund. Expenditures are shown in Table 1 and explained below.

Cost Components	FY 2017-18	FY 2018-19
Personal Services	\$101,925	\$101,925
PUC FTE	1.3 FTE	1.3 FTE
Operating Expenses and Capital Outlay Costs	5,938	1,235
Legal Services	22,812	
LAW FTE	0.1 FTE	
Computer Programming	30,900	
Centrally Appropriated Costs*	19,685	19,685
TOTAL	\$181,260	\$122,845

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

Public Utilities Commission. Beginning in FY 2017-18, the ombudsman position will require 1.0 FTE, plus administrative staff support of 0.3 FTE per year. Standard capital outlay and operating costs are included. The PUC will also have one-time legal services costs for rulemaking, estimated at 240 hours at the rate of \$95.05 per hour, which necessitates an allocation of 0.1 FTE. The Office of Information Technology will provide 300 hours of one-time computer programming to upgrade the PUC's audio system and web interface, at the rate of \$103 per hour.

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.

Cost Components	FY 2017-18	FY 2018-19
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$10,552	\$10,552
Supplemental Employee Retirement Payments	9,133	9,133
TOTAL	\$19,685	\$19,685

Technical Note

Transportation regulation makes up approximately 15 percent of PUC workload and is paid for through the Motor Carriers Cash Fund. The Motor Carriers Cash Fund is supported by permit and stamp fees on regulated motor carriers, and revenue from interstate trucking fees. While the bill requires its costs to be paid from the FUF and TUF, the fiscal note assumes that only 85 percent of the costs will come from those funds, and the remainder from the Motor Carriers Cash Fund.

Effective Date

The bill takes effect July 1, 2017.

State Appropriations

In FY 2017-18, the bill requires an appropriation of \$161,575 to the Public Utilities Commission in the Department of Regulatory Agencies. Of this amount, \$137,339 (85 percent) is required from the Fixed and Telecommunications Utilities Funds, and \$24,236 (15 percent) is required from the Motor Carrier Cash Fund. Of the total amount, the Department of Law requires a reappropriation of \$22,812 and an allocation of 0.1 FTE; and the Office of Information Technology requires a reappropriation of \$30,900.

Departmental Difference

DORA interprets the bill to require court reporters to provide a full and true recording of all hearings at an additional cost of \$198,423 per year and an allocation of 3.2 FTE. The fiscal note assumes that an audio recording will meet the bill's requirements and represents the least cost alternative.

State and Local Government Contacts

Information Technology

Law

Regulatory Agencies