



**Colorado
Legislative
Council
Staff**

HB17-1323

**REVISED
FISCAL NOTE**

(replaces fiscal note dated April 18, 2017)

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

Drafting Number: LLS 17-0953

Date: April 20, 2017

Prime Sponsor(s): Rep. Esgar
Sen. Cooke; Garcia

Bill Status: House Finance

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>\$154,194</u> | <u>\$125,977</u> |
| General Fund | 3,834 | 3,133 |
| Cash Funds | 150,360 | 122,845 |
| State Expenditures | <u>\$150,360</u> | <u>\$122,845</u> |
| Cash Funds | 130,675 | 103,160 |
| Centrally Appropriated Costs | 19,685 | 19,685 |
| TABOR Impact | \$154,194 | \$125,977 |
| FTE Position Change | 1.4 FTE | 1.3 FTE |
| Appropriation Required: \$130,675 – Department of Regulatory Agencies (FY 2017-18). | | |
| Future Year Impacts: Ongoing revenue and expenditure increase. | | |

Summary of Legislation

The bill, *as amended by the House Transportation and Energy Committee*, 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 and the Motor Carriers Fund in DORA. 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 active 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 \$154,194 in FY 2017-18 and by \$125,977 in FY 2018-19** to the Fixed Utilities Fund (FUF), the Telecommunications Utilities Fund (TUF), and the Motor Carrier Cash Fund. 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 FUF and 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 \$3,834 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 remaining 15 percent will be paid from the Motor Carrier Cash Fund.

TABOR Impact

This bill increases state cash fund 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 \$150,360 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 Carrier Cash Fund. Expenditures are shown in Table 1 and explained below.

| Table 1. Expenditures Under HB17-1323 | | |
|--|-------------------|-------------------|
| 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 | |
| Centrally Appropriated Costs* | 19,685 | 19,685 |
| TOTAL | \$150,360 | \$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. Because the PUC already has the capability to record and post audio online, the fiscal note assumes that no computer programming costs are required.

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.

| Table 2. Centrally Appropriated Costs Under HB17-1323 | | |
|--|-------------------|-------------------|
| 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 |

Effective Date

The bill takes effect July 1, 2017.

State Appropriations

In FY 2017-18, the bill requires an appropriation of \$130,675 to the Public Utilities Commission in the Department of Regulatory Agencies. Of this amount, \$55,537 is required from the Fixed Utilities Fund; \$55,537 is required from the Telecommunications Utilities Fund; and \$19,601 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.

State and Local Government Contacts

Information Technology

Law

Regulatory Agencies