HB10-1365

Colorado Legislative Council Staff Fiscal Note

STATE FISCAL IMPACT

Drafting Number:	LLS 10-0144	**Date:**	March 16, 2010
Prime Sponsor(s):	Rep. Solano; Roberts Sen. Whitehead; Penry	**Bill Status:**	House Transportation and Energy
		Fiscal Analyst:	Marc Carey (303-866-4102)

TITLE: CONCERNING INCENTIVES FOR ELECTRIC UTILITIES TO REDUCE AIR EMISSIONS, AND, IN CONNECTION THEREWITH, REQUIRING PLANS TO ACHIEVE SUCH REDUCTIONS TO GIVE PRIMARY CONSIDERATION TO CONVERTING FROM COAL TO NATURAL GAS.

Fiscal Impact Summary	FY 2010-2011	FY 2011-2012
State Revenue		
General Fund	$2,804	$2,717
Cash Funds		
Fixed Utility Fund	90,657	87,855
State Expenditures		
Cash Funds		
Fixed Utility Fund*	$74,115	$71,313
FTE Position Change	0.6 FTE	0.6 FTE
Effective Date: Upon signature of the Governor, or upon becoming law without his signature.		
Appropriation Summary for FY 2010-2011: See State Appropriations section.		
Local Government Impact: None.		

* *Of this amount, $13,041 will be paid to the Department of Law for legal services.*

Summary of Legislation

In anticipation of emission requirements of the federal Clear Air Act, this bill requires that, by August 15, 2010, all regulated utilities (IOUs) that own or operate coal-fired electric generating units submit to the Colorado Public Utilities Commission (PUC) an emissions reduction plan for those units. The plan is required to cover 900 megawatts or 50 percent of the utility's generating capacity, whichever is less. The plan must give primary consideration to conversion of the units to natural gas or other low-emission resources, and may not cover any units already planned for retirement prior to January 1, 2015.

The PUC will provide the Department of Public Health and Environment (DPHE) with an opportunity to comment on the utility's plans. Specifically, the DPHE must determine whether any new or repowered generating unit will emit more than 1,100 pounds of carbon dioxide (CO_2) per megawatt of generation, and whether the plans comply with applicable federal and state clean air laws. Plans must be fully implemented by December 31, 2017.

The PUC must also evaluate and approve, modify, or deny the plans by December 15, 2010, considering the following factors:

- the emission reductions achieved;
- the use of existing natural gas generation capacity;
- whether the plan promotes economic development;
- any potential rate impacts;
- whether the plan preserves reliable electric service for Colorado consumers; and
- compliance with federal and state renewable energy requirements.

The bill requires the Air Quality Control Commission to incorporate the reductions derived from the plans into the regional haze element of the state implementation plan. Any reduction achieved through a compliance strategy before it is mandated by federal law count as voluntary for purposes of early reduction credits. Utilities are required to certify annually the comparative carbon dioxide emission rate of retired and replacement electric generation resources, comparative unit utilization rates, and the overall volume of CO_2 emissions reduced.

Finally, the PUC is authorized to approve interim rates that take effect within 60 days after a rate increase filing. The PUC is also directed to require a utility to rebate rates if the final rate is lower than the interim rate.

State Revenue

Fixed Utility Fund. In FY 2010-11, this bill is expected to increase state revenue by $93,460, of which $90,657 will be credited to the Fixed Utility Fund (FUF) and $2,804 to the General Fund. The corresponding revenue increase for FY 2011-12 will be $90,572, with $87,855 credited to the FUF and $2,717 credited to the General Fund. The administrative costs incurred by the PUC as a result of this bill and discussed in the State Expenditures section will be paid from the FUF.

The FUF receives its revenues from an annual fee assessment based on a statutory formula contained in Section 40-2-112, C.R.S., that utilizes the utility's gross operating revenue derived from intrastate utility business. Whenever additional expenses are incurred against the FUF, this assessment must be raised to increase revenues to recover direct and indirect costs, plus pay an additional three percent to the General Fund. Thus, cash fund revenues would have to be increased sufficiently to cover the direct expenses discussed in the State Expenditures section and detailed in Table 1, plus the indirect costs described in the Expenditures Not Included section, plus credit 3 percent to the General Fund.

Stationary Sources Control Fund. The Air Pollution Control Division is currently funded though fees assessed on air emissions. Current fees are set at $22.90 per ton of regulated pollutants and $52.90 per ton of hazardous pollutants for the first 4,000 tons of emissions of each pollutant per source. To the extent that the bill results in emission reductions below 4,000 tons per source, the state could see a reduction in fee revenue. This fiscal note assumes that such fee revenue reductions would not occur until 2013 at the earliest. These reductions have not been quantified.

State Expenditures

Department of Regulatory Agencies, Public Utilities Commission (PUC). The PUC will incur additional costs of $74,115 and 0.6 FTE in FY 2010-11 and $71,313 and 0.6 FTE in FY 2011-12 as a result of this bill. Table 1 summarizes these costs based on the following assumptions:

- Xcel Energy will file 1 additional rate case annually to comply with the bill's provisions; and
- each filing will require 0.3 FTE Professional Engineer III and Rate/Financial Analyst IV in addition to 80 hours Administrative Law Judge.

Table 1. Rulemaking Expenditures Under HB 10-1365

Cost Components	**FY 2010-11**	**FY 2011-12**
Personal Services	$57,703	$57,703
FTE	0.6	0.6
Operating Expenses and Capital Outlay	3,372	570
Legal Services	13,041	$13,041
TOTAL	**$74,115**	**$71,313**

Department of Public Health and Environment. The DPHE is required to comment on the emission reductions plans submitted by the IOUs, and determine whether the plan is consistent with the current and anticipated requirements of the federal Clean Air Act. As part of these comments, the DPHE is required to determine whether any new or repowered electric unit will emit more than 1,100 pounds of CO_2 per megawatt-hour. In addition, the Air Quality Control Commission is required to initiate a proceeding to incorporate the air quality provisions of the utility plan into the regional haze element of the state implementation plan. Costs associated with these requirements are unknown at this time. This note will be updated as more information becomes available.

Expenditures Not Included

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 summarized in Table 2.

Table 2. Expenditures Not Included Under HB 10-1365*		
Cost Components	**FY 2010-11**	**FY 2011-12**
Employee Insurance (Health, Life, Dental, and Short-term Disability)	$4,340	$4,340
Supplemental Employee Retirement Payments	$2,146	$2,146
Indirect Costs	$7,375	$7,375
Leased Space	$2,520	$2,520
Leased Space	$160	$160
TOTAL	**$16,541**	**$16,541**

**More information is available at: http://www.colorado.gov/cs/Satellite/CGA-LegislativeCouncil/CLC/1200536133924*

State Appropriations

For FY 2010-11, the PUC will require a cash funds appropriation of $74,115 and 0.6 FTE from the Fixed Utility Fund.

Departments Contacted

Public Health and Environment   Regulatory Agencies