HB10-1001

Colorado Legislative Council Staff Fiscal Note

FINAL FISCAL NOTE

Drafting Number:	LLS 10-0385	**Date:**	June 16, 2010
Prime Sponsor(s):	Rep. Tyler Sen. Schwartz; Whitehead	**Bill Status:**	Signed into Law
		Fiscal Analyst:	Marc Carey (303-866-4102)

TITLE: CONCERNING INCENTIVES FOR THE INSTALLATION OF NEW DISTRIBUTED RENEWABLE ENERGY GENERATION FACILITIES IN COLORADO, AND, IN CONNECTION THEREWITH, INCREASING THE TARGET PERCENTAGES UNDER THE ELECTRIC UTILITY PORTFOLIO STANDARD TO ENCOURAGE COLORADO UTILITIES TO GENERATE THREE PERCENT OF THEIR RETAIL ELECTRICITY SALES FROM DISTRIBUTED RENEWABLE SOURCES BY THE YEAR 2020, ADOPTING STANDARDS FOR THE INSTALLATION OF DISTRIBUTED SOLAR ELECTRIC GENERATION EQUIPMENT, AND MAKING AN APPROPRIATION THEREFOR.

Fiscal Impact Summary	FY 2010-2011	FY 2011-2012
State Revenue		
General Fund	$2,018	$0
Cash Funds		
Fixed Utility Fund	65,247	0
State Expenditures		
Cash Funds		
Fixed Utility Fund	$51,440	$0
FTE Position Change	0.5 FTE	0.0 FTE
Effective Date: The Governor signed the bill into law on March 22, 2010, and unless a referendum petition is filed, the bill will take effect August 11, 2010.		
Appropriation Summary for FY 2010-2011: See State Appropriations section.		
Local Government Impact: None		

Summary of Legislation

Current law establishes a renewable portfolio standard (RPS) under which investor-owned utilities (IOUs) and certain other utilities are required to generate an increasing percentage of their electricity from renewable sources. This bill modifies and expands the existing RPS statutes as follows:

Increases Total RPS Requirements for IOU's. The bill boosts the required RPS percentages for IOUs in order to achieve 30 % renewable generation by 2020, according to the following schedule:

Years	IOUs (current)	IOUs (proposed)
2011 - 2014	10%	12%
2015 - 2019	15%	20%
2020 and beyond	20%	30%

Distributed Generation Requirements. The bill repeals the existing 4 % requirement for solar energy, and requires a portion of the RPS be met through distributed generation (DG), including retail (RDG) and wholesale (WDG) distributed generation. RDG is defined as an on-site renewable energy resource, interconnected to the grid and designed to provide electricity to serve the customer's load. RDG must be sized to supply no more than 120 percent of the average annual electricity consumption at that site. WDG is defined as a Colorado renewable energy resource with a nameplate rating of 30 megawatts or less that is not RDG. DG facilities with generating capacity greater than 1 megawatt are required to register with a renewable energy generation tracking system established by the Colorado Public Utilities Commission (PUC).

The bill specifies that RDG is not eligible for the 1.25 multiplier for in-state, renewable generation, and requires the percent of total retail electricity sales derived from DG to increase according to the following schedule: 1 % from 2011-2012, 1.25 % from 2013-2014, 1.75 % from 2015-2016, 2 % from 2017-2019, and 3 % in 2020 and thereafter. The bill specifies that the DG requirements for 2015 and after may be changed at the PUC's discretion if they are no longer in the public interest.. In that event, the PUC is authorized to set lower DG requirements to apply after 2014. If the PUC finds higher requirements to be in the public interest, they must report this finding to the General Assembly.

Rebate Offers. The bill sets the amount of the standard rebate at a minimum of $2.00 per watt. The PUC is authorized to set the rebate at a lower level if market conditions support a rebate adjustment based on a review of a utility's resource plan.

Retail Rate Impact. Upon receiving PUC approval, the bill allows qualifying utilities to augment the money collected from retail customers through the renewable energy standard adjustment (RESA) with money advanced by the utility for the acquisition of more renewable energy resources. Such funds will be repaid from future retail rate collections, with interest calculated at the utility's after-tax weighted average cost of capital.

For the residential and nonresidential retail market segments, expenditures must be proportionate to the utility's revenues received from each segment, except that the utility may acquire RDG based on market response to the utility's programs. The bill also authorizes but doesn't require the PUC to ensure that customers with on-site DG systems continue to contribute, in a nondiscriminatory fashion, their fair share to their utility's renewable energy program fund, even if such a charge exceeds 2 % of their annual electric bill.

Solar Certification. Effective January 1, 2012, the bill requires that for all new DG systems funded through ratepayer funded incentives, the installation of photovoltaic systems must be supervised by practitioners certified by the North American Board of Certified Energy Practitioners.

The bill also specifies required minimum ratios for certified practitioners and assistants and minimum qualifications for workers involved with the installation of such systems. Effective July 1, 2011, the bill requires that all photovoltaic installations financed with state or federal grants or through the state's Clean Energy Finance Program are subject to the same certification and employment requirements as those funded through ratepayer incentives.

The bill specifies that the PUC is not responsible for monitoring or enforcing contractor compliance with certification, worker ratio, and worker qualification requirements. It is the responsibility of the contractor to obtain specified information, and the responsibility of the utility to obtain, and retain for at least 1 year after completion of the installation, copies of all documentation related to these requirements and connected with the installation.

Best Value Employment Metrics. The bill requires the PUC, when evaluating resource acquisitions for new energy technologies, to qualitatively consider factors that affect the long-term viability of communities. The PUC is directed to require utilities to request information on a variety of employment metrics. When the utility proposes to construct new facilities, the utility must supply similar information.

Background

Since the passage of Amendment 37 in the 2004 general election, the General Assembly has passed several pieces of legislation related to clean energy development in Colorado. To provide context for this legislation, the following describes two sections of statute that relate to the provisions of HB 10-1001, and discusses 3 bills that have been enacted to amend these sections.

Renewable Energy Standard (40-2-124, C.R.S). This section of statute was established by Amendment 37 and created the original RPS for Colorado. ***HB 07-1281*** expanded the RPS to apply to Cooperative Electric Associations (CEAs) and Municipally-Owned Utilities (MOUs) with more than 40,000 customers. The bill raised the standard for electricity generation from renewable resources for IOUs and established a standard for CEAs and MOUs. The bill established bonuses for certain types of generation facilities, and raised the allowable retail rate impact from 1 to 2 percent of the customer's total annual electric bill. CEA's were required to submit RPS compliance reports similar to those IOUs, but these reports are not subject to the same review process.

New Energy Technologies (40-2-123, C.R.S.) This section of statute requires the PUC to consider the cost-effective implementation of clean energy and energy -efficiency technologies in it's consideration of generation acquisitions for electric utilities, bearing in mind factors such as energy security, economic prosperity, environmental protection and insulation from fuel price increases. ***HB 06-1281*** amended this section to require the PUC to consider the development of integrated gasification combined-cycle electric generation facilities upon a showing of feasibility, environmental benefits and cost-effectiveness. ***HB 08-1164*** further amended this section to allow the PUC to consider the likelihood of future regulation and the risk of higher future costs associated with greenhouse gas emissions. The bill also allowed the PUC to consider whether acquisition of utility-scale solar resources is in the public interest, given 5 specific attributes of such generation.

State Revenue

In FY 2010-11, this bill is expected to increase state revenue by $67,265, of which $65,247 will be credited to the Fixed Utility Fund (FUF) and $2,018 to the General Fund. The administrative costs incurred by the PUC and 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.

State Expenditures

Department of Regulatory Agencies, Public Utilities Commission (PUC). The PUC will incur additional costs of, at most, $51,440 and 0.5 FTE as a result of this bill. Table 1 summarizes these costs assuming the PUC would need to revise or clarify the following RPS rules:

- the overall renewable energy standard for IOUs;
- the exclusion of RDG from eligibility for the compliance bonus for generation from in-state renewable energy resources; and
- the recovery of interest on funds advanced by the utility for the acquisition of more renewable energy resources at the utility's after-tax weighted average cost of capital.

In addition, the PUC will need to establish new rules related to:

- the specified standard for IOUs regarding distributed generation, including RDG and WDG;
- the requirement that all DG facilities with generation capacity in excess of 1 megawatt be registered with a renewable energy generation information tracking system; and
- the development of a system, at the PUCs discretion, to ensure that customers that install DG continue to contribute their share to the utility's renewable energy program fund, even if this results in the exceedance of the 2 % rate impact.

Table 1. Rulemaking Expenditures Under HB 10-1001

Cost Components	**FY 2010-11**	**FY 2011-12**
Personal Services	$48,630	$0
FTE	0.5	0.0
Operating Expenses and Capital Outlay	$2,810	$0
TOTAL	**$51,440**	**$0**

Rule promulgation is one of the primary responsibilities of PUC staff, and historically the PUC has maintained that rules can be promulgated within existing budgetary resources. This has changed in recent years due to the contentious process surrounding the promulgation of rules to implement Amendment 37. It is hard to know in advance how contentious the rulemaking process will be.

State Agency Impact. Current law contains a 2 percent cap on the retail rate impact of the renewable portfolio standard. This bill does not affect the cap, but it allows DG requirements to be modified by the PUC if, after 2014, the PUC determines that further DG acquisition is not in the public interest. In this event, the DG acquisition requirements may be lowered by PUC rule.

The retail rate impact is a function of the cost differential between renewable resource acquisition and conventional resource acquisition, typically natural gas. The projected future differential will depend on the projected future price of renewable resources and the projected future price of natural gas, as well as anticipated technology changes. Natural gas prices in particular are highly volatile. Recently, they have been as high as $11 per thousand cubic feet in July 2008, and have fallen as low as $2.00 per thousand cubic feet in July 2009.

If the rate impact is at 2 percent, because this bill does not affect the cap, there would be no impact to retail customers, including state agencies. If the rate impact was below the cap, say 1 percent, and this bill caused the rate impact to hit the cap, the impact of the bill would be 1 percent for all utility customers. Future rate impacts are difficult to predict and depend on assumptions regarding the factors identified above. As part of their 2009 RPS compliance plan, the retail rate impact for Xcel Energy, as approved by the PUC is at 2 percent. Thus, in terms of rates, Xcel customers, including state agencies, would not be impacted by this bill in FY 2010-11.

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 10-1001*

Cost Components	FY 2010-11	FY 2011-12
Employee Insurance (Health, Life, Dental, and Short-term Disability)	$3,618	$0
Supplemental Employee Retirement Payments	$1,808	$0
Indirect Costs	$6,146	$0
Leased Space	$2,100	$0
Worker's Comp/Risk Management	$135	$0
TOTAL	**$13,807**	**$0**

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

State Appropriations

For FY 2010-11, the bill makes a cash funds appropriations to the PUC of $51,440 and 0.5 FTE from the Fixed Utility Fund.

Departments Contacted

Regulatory Agencies	Law