

**STATE
FISCAL IMPACT**

Drafting Number: LLS 11-0615
Prime Sponsor(s): Sen. Johnston
 Rep. Kerr A.

Date: February 8, 2011
Bill Status: Senate Agriculture
Fiscal Analyst: Marc Carey (303-866-4102)

TITLE: CONCERNING AN INCREASE IN THE TRANSPARENCY OF A BUILDING'S ENERGY PERFORMANCE.

Fiscal Impact Summary	FY 2011-2012	FY 2012-2013
State Revenue		
Cash Funds		
Fines Collection Cash Fund	< \$5,000	< \$5,000
State Expenditures	See State Expenditures section	
FTE Position Change		
Effective Date: August 10, 2011, if the General Assembly adjourns on May 11, 2011, as scheduled, and no referendum petition is filed.		
Appropriation Summary for FY 2011-2012: None required.		
Local Government Impact: See Local Government Impact section..		

Summary of Legislation

On and after January 1, 2012, this bill requires all utilities with at least 40,000 customers to maintain energy consumption data for all commercial buildings served by the utility. Beginning January 1, 2013, a commercial building's owner and the utility are required to upload the energy consumption data to a portfolio manager maintained by the United States Environmental Protection Agency (EPA) for the purpose of generating an energy performance rating. Associated costs incurred by the utility may only be recovered from customers that receive energy performance ratings. The Colorado Public Utilities Commission (PUC) is authorized promulgate rules in order to facilitate this process.

Owners or agents of commercial buildings are required to disclose the building's energy performance rating to purchasers or lessees at the time of conveyance and, upon request, to prospective purchasers or lessees. This disclosure is required by the following dates:

- January 1, 2012, for commercial buildings larger than 50,000 square feet; and
- January 1, 2013, or all commercial buildings, regardless of size.

Finally, the bill specifies that a person supplying false information related to the disclosure of an energy performance rating commits a Class 1 misdemeanor. The bill also authorizes the Real Estate Commission in the Department of Regulatory Agencies to develop standardized forms for energy performance ratings disclosures.

State Revenue

The bill may increase state revenue from fines, although less than \$5,000 in new state revenue is expected per year. According to Section 18-1.3-501, C.R.S., the penalty for a class 1 misdemeanor is 6 to 18 months imprisonment in a county jail, a fine of \$500 to \$5,000, or both. Fine revenue that is not otherwise appropriated is deposited into the Fines Collection Cash Fund. Because the courts have the discretion of incarceration, imposing a fine, or both, the impact to state revenue cannot be determined.

State Expenditures

No expenditure impact is anticipated as a result of this bill.

Department of Regulatory Agencies, Public Utilities Commission. This bill requires the maintenance and disclosure of energy consumption data for commercial buildings by property owners and utilities. The bill also authorizes rulemaking, as necessary, by the PUC. The PUC may elect to promulgate rules to clarify guidelines for the collection and reporting of data, but this can be done within existing appropriations.

Associated costs of the data collection and maintenance can be recovered from customers that receive energy performance ratings for their buildings. This will typically be addressed through a rate case proceeding, which can be accomplished within existing appropriations.

Department of Regulatory Agencies, Real Estate Commission. The bill authorizes the commission to develop standardized forms for performance rating disclosures. It is anticipated that this can be accomplished within existing appropriations.

Local Government Impact

The penalty for a class 1 misdemeanor is 6 to 18 months imprisonment in a county jail, a fine of \$500 to \$5,000, or both. Because the courts have the discretion of incarceration or imposing a fine, the impact at the local level cannot be determined. The cost to house an offender in county jails varies from \$45 to \$50 per day in smaller rural jails to \$62 to \$65 per day for larger Denver-metro area jails. For the current fiscal year, the state reimburses county jails a daily rate of \$50.44 to house state inmates. It is assumed that the impact of this new misdemeanor will be minimal and will not create the need for additional county jail space.

Departments Contacted

Regulatory Agencies

Judicial Branch