

**REVISED FISCAL IMPACT**

(replaces fiscal note dated January 20, 2012)

**Drafting Number:** LLS 12-0201

**Date:** February 14, 2012

**Prime Sponsor(s):** Rep. Swalm  
Sen. Tochtrop

**Bill Status:** House Transportation

**Fiscal Analyst:** Marc Carey (303-866-4102)

**TITLE:** CONCERNING A CAP ON INCREASES IN ELECTRICAL UTILITY RATES ARISING FROM IMPLEMENTATION OF THE "CLEAN AIR - CLEAN JOBS ACT".

<b>Fiscal Impact Summary</b>	<b>FY 2012-2013</b>	<b>FY 2013-2014</b>
<b>State Revenue</b>		
General Fund	\$4,070	\$3,793
Cash Funds		
Fixed Utility Fund	131,582	122,634
<b>State Expenditures</b>		
Cash Funds		
Fixed Utility Fund	\$124,893	\$115,901
<b>FTE Position Change</b>	1.0 FTE	1.0 FTE
<b>Effective Date:</b> August 7, 2012, if the General Assembly adjourns on May 9, 2012, as scheduled, and no referendum petition is filed.		
<b>Appropriation Summary for FY 2012-2013:</b> See State Appropriations section.		
<b>Local Government Impact:</b> None.		

**Summary of Legislation**

The Clean Air - Clean Jobs Act (CACJ), passed during the 2010 session, directed regulated utilities to create plans for reducing emissions from coal-fired power plants, and specified the extent to which the costs associated with plan implementation are recoverable. For 2013 through 2023, this bill directs the Public Utilities Commission (PUC) to establish a maximum retail rate impact of one percent of the base rate for each individual customer.

**Background**

In late 2010, the PUC held extensive hearings in order to implement CACJ. On December 15, 2010, the PUC approved emissions reductions plans for both Public Service Company of Colorado and Black Hills Electric. On May 2, 2011, the General Assembly approved these plans through the passage of House Bill 11-1291, which approved the federal State Implementation Plan (SIP).

**State Revenue**

In FY 2012-13, this bill is expected to increase state revenue by \$135,652, of which \$131,582 will be credited to the Fixed Utility Fund (FUF) and \$4,070 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 each 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 expenses discussed in the State Expenditures section plus the costs described in the Expenditures Not Included section, plus credit three percent to the General Fund.

**State Expenditures**

*Department of Regulatory Agencies, Public Utilities Commission (PUC).* The PUC will incur additional administrative costs of **\$124,893 and 1.0 FTE** in FY 2012-13 and **\$115,901 and 1.0 FTE** in FY 2013-14. Table 1 summarizes these costs based on the following assumptions:

- the PUC will need to hold annual hearings regarding revision of the utility's emissions reductions plans in order to comply with the one percent rate cap;
- to estimate the rate impact of CACJ, each utility will need to present hypothetical cost estimates absent passage of CACJ;
- the hearings will be highly contested, and will occur annually during the 11-year period that the cap is in place; and
- the hearings will require 0.5 FTE Professional Engineer III, 0.5 FTE Rate/Financial Analyst II and 100 hours for an Administrative Law Judge II and 320 hours of legal advice from the Department of Law.

<b>Table 1: PUC Expenditures Under HB 12-1102</b>		
<b>Cost Components</b>	<b>FY 2012-13</b>	<b>FY 2013-14</b>
Personal Services	\$95,013	\$90,724
FTE	1.0	1.0
Operating Expenses and Capital Outlay	5,653	950
Legal Expenses*	24,227	24,227
<b>Total Expenses</b>	<b>\$124,893</b>	<b>\$115,901</b>

\* These funds are reappropriated to the Department of Law.

**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.

<b>Table 2. Expenditures Not Included Under HB 12-1102*</b>		
<b>Cost Components</b>	<b>FY 2012-13</b>	<b>FY 2013-14</b>
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$6,182	\$6,176
Supplemental Employee Retirement Payments	\$507	\$557
<b>TOTAL</b>	<b>\$6,689</b>	<b>\$6,733</b>

*\*More information is available at: <http://colorado.gov/fiscalnotes>*

**State Agency Impact.** State agencies are retail utility customers and thus are impacted by utility rate increases. To the extent that this bill reduces utility rates by capping annual increases in base rates attributable to CACJ, the bill will save the state money. Such potential savings have not been quantified.

**State Appropriations**

For FY 2012-13, the Department of Regulatory Agencies, Public Utilities Commission will require a cash fund appropriation of \$124,893 from the Fixed Utility Fund. Of this amount, \$24,227 will be reappropriated to the Department of Law for legal services. The commission will also require authorization for 1.0 FTE.

**Departments Contacted**

Regulatory Agencies