


Colorado Legislative Council Staff Fiscal Note
STATE
FISCAL IMPACT

Drafting Number: LLS 12-0069
Prime Sponsor(s): Rep. Balmer

Date: January 17, 2012
Bill Status: House Transportation
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TITLE: CONCERNING LIMITING EX PARTE COMMUNICATIONS BY COMMISSIONERS OF THE PUBLIC UTILITIES COMMISSION.

Fiscal Impact Summary	FY 2012-2013	FY 2013-2014
State Revenue		
State Expenditures		
General Fund	\$1,090	\$1,601
Cash Funds		
PUC Fixed Utility Fund	\$35,251	\$51,775
FTE Position Change	0.3 FTE	0.4 FTE
Effective Date: September 1, 2012, unless a referendum petition is filed.		
Appropriation Summary for FY 2012-2013: See State Appropriations section.		
Local Government Impact: None.		

Summary of Legislation

This bill modifies the operations of the Public Utilities Commission (PUC) in several ways. It specifies that the Colorado Code of Judicial Conduct applies to PUC commissioners and administrative law judges (ALJ). It requires ex parte communication memoranda (private communications between a PUC commissioner or ALJ and an interested person) to be posted on the PUC website within five business days after it is filed. The records of communications between two or more commissioners concerning pending legislative proposals are made subject to disclosure in accordance with the "Colorado Open Records Act".

When a party to a proceeding before the PUC has a good-faith belief that a commissioner or ALJ may not be impartial or has engaged in a prohibited communication, the party may file a motion to disqualify the commissioner or ALJ from the hearing. The PUC must immediately suspend the proceeding and rule upon the motion within ten business days. If the motion for disqualification is approved, and this results in the loss of a quorum, the decision rendered by a commissioner designated as a hearing officer or the ALJ is the final decision of the PUC. Any appeal of this final decision may be taken directly to district court rather than be reconsidered by the PUC.

State Expenditures

This bill is expected to increase expenditures by \$35,251 and 0.3 FTE in FY 2012-13 and \$53,376 and 0.4 FTE in FY 2013-14 and future years. In the first year, \$1,090 will be from the General Fund and \$35,251 will be from the PUC Fixed Utility Fund. In the following years, \$1,601 will be from the General Fund and \$51,775 will be from the PUC Fixed Utility Fund. All expenditures are for legal services.

In FY 2012-13, the fiscal note assumes that the PUC will have six motions for disqualification of a commissioner. Each such motion requires 40 hours of legal services at \$75.71 per hour to review motions, meet with commissioners, and draft the decisions. The fiscal note assumes that four appeals will be made directly to District Court. Each appeal requires 60 hours of legal services to file briefs and prepare and present oral arguments.

In FY 2013-14, the fiscal note assumes that the PUC will have the same number of motions and appeals but will also have three appeals to the Supreme Court of District Court decisions. These appeals require 75 hours of legal services to file briefs and prepare and present oral arguments.

Actual expenditures will depend on the number of motions and appeals filed.

State Appropriations

For FY 2012-13, the Department of Regulatory Agencies requires the following appropriation for reappropriation to the Department of Law:

\$1,090 from the General Fund;
\$35,251 from the PUC Fixed Utility Fund; and
0.3 FTE.

Departments Contacted

Department of Regulatory Agencies