


Colorado Legislative Council Staff Fiscal Note
STATE
REVISED FISCAL IMPACT
(replaces fiscal note dated January 17, 2012)

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

Date: January 23, 2012
Bill Status: House Transportation
Fiscal Analyst: Clare Pramuk (303-866-2677)

TITLE: CONCERNING LIMITING EX PARTE COMMUNICATIONS BY COMMISSIONERS OF THE PUBLIC UTILITIES COMMISSION.

Fiscal Impact Summary	FY 2012-2013	FY 2013-2014
State Revenue		
General Fund	\$1,124	\$1,651
Cash Funds		
PUC Fixed Utility Fund	36,341	53,376
State Expenditures		
Cash Funds		
PUC Fixed Utility Fund	\$36,341	\$53,376
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 fiscal note was revised to include updated information. 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 Revenue

In FY 2012-13, this bill is expected to increase state revenue by \$37,465 of which \$36,341 will be credited to the Fixed Utility Fund (FUF) and \$1,124 to the General Fund. In FY 2013-14, state revenue is expected to increase by \$55,027 of which \$53,376 will be credited to the Fixed Utility Fund (FUF) and \$1,651 to the General Fund.

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 cover expenditures, plus pay an additional three percent to the General Fund.

State Expenditures

This bill is expected to increase expenditures by \$36,341 and 0.3 FTE in FY 2012-13 and \$53,376 and 0.4 FTE in FY 2013-14 and future from the PUC Fixed Utility Fund. All expenditures are for legal services which are billed at \$75.71 per hour.

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 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:

\$36,341 from the PUC Fixed Utility Fund and 0.3 FTE.

Departments Contacted

Department of Regulatory Agencies Law