HB13-1255

Colorado Legislative Council Staff Fiscal Note

STATE FISCAL IMPACT

Drafting Number:	LLS 13-0364	**Date:**	April 16, 2013
Prime Sponsor(s):	Rep. Williams; Murray Sen. Kerr; Scheffel	**Bill Status:**	House Business, Labor, Economic and Workforce Development
		Fiscal Analyst:	Alex Schatz (303-866-4375)

TITLE: CONCERNING THE EXEMPTION OF CERTAIN INTERNET PROTOCOL-ENABLED SERVICES FROM OVERSIGHT BY THE PUBLIC UTILITIES COMMISSION.

Fiscal Impact Summary	FY 2013-2014	FY 2014-2015
State Revenue Cash Funds Fixed Utility Fund High Cost Support Mechanism Account	See State Revenue section.	
State Expenditures	See State Expenditures section.	
FTE Position Change		
Effective Date: Upon signature of the Governor, or upon becoming law without his signature.		
Appropriation Summary for FY 2013-2014: None required.		
Local Government Impact: None.		

Summary of Legislation

This bill exempts from regulation by Colorado's Public Utilities Commission (PUC), with certain limitations, internet protocol-enabled services and voice-over internet protocol service (collectively, "VoIP"), and any new service not currently regulated. VoIP services remain subject to PUC regulation with respect to existing wholesale interconnection obligations and dispute resolution, but VoIP services are not subject to certain telecommunications surcharges. The bill retains existing PUC regulation of basic emergency service and basic emergency service providers (i.e., 911 services) and does not affect surcharges that support 911 services.

Background

Internet-protocol enabled services and VoIP are emerging telecommunication technologies that access the public switched telephone network from a broadband connection. Under current law, some, but not all, telecommunications providers with internet protocol and VoIP services operate according to certificates of public convenience and necessity granted by the PUC, have tariffs and rates set by the PUC, and make contributions to various telecommunications funds governed by the PUC.

Based on the Department of Revenue's calculation of the gross intrastate operating revenue of each public utility, the PUC receives in the Fixed Utilities Fund (FUF) an assessment to offset its costs of regulation. These assessments, known as the Fixed Utility Fee, are capped at a uniform rate of 0.2 percent of the gross operating revenue of each utility. In FY 2011-12, the Fixed Utilities Fund collected $11.6 million in fees and assessments, of which $1.8 million were paid by telecommunications providers.

The PUC also administers the High Cost Support Mechanism (HCSM), through which the PUC subsidizes telecommunications providers in high cost areas (typically rural areas) based on an assessment on all telecommunications providers. The HCSM is collected exclusively from telecommunication providers. Based on cash flow analysis and other economic factors, the PUC recently took action to reduce from 2.9 percent to 2.6 percent the surcharge on intrastate telecommunications services. Telecommunications providers pass on HCSM surcharges on ratepayers' phone bills.

State Revenue

In FY 2013-14 and future fiscal years, the bill requires fee adjustments to maintain current levels of state revenue funding for PUC programs. Exempting some providers without changing operational costs of PUC programs will require an increase in fees paid by other regulated utilities.

Fee Impact on Public Utilities and Telecommunications Service Ratepayers. Section 2-2-322, C.R.S., requires legislative service agency review of measures which create or increase any fee collected by a state agency. Fee adjustments affecting the Fixed Utilities Fund and the High Cost Support Mechanism are described below.

Fixed Utilities Fund. Based on current revenue to the FUF from VoIP telecommunication providers that are known to be exempt under the bill, additional fees amounting to $400,000 must be collected from all other non-exempt public utilities. These fees will be assessed on telecommunications companies that remain subject to PUC assessments, as well as other public utilities (*e.g.*, gas and electric providers; according to statistics compiled by the PUC there are 440 telecommunication providers, 5 natural gas utilities, and 2 electric utilities subject to PUC regulation).

Currently, the Fixed Utility Fee is periodically adjusted but remains at a level near the statutory cap. The fiscal note assumes that the remaining capacity under the cap will be used to the extent required to replace lost fee revenue from exempt providers. If adjustments of the Fixed Utility Fee are insufficient to replace current revenue, growth of the base amount of gross intrastate revenue from public utilities may prevent a deficit in FUF revenue; however, to the extent that the Fixed Utility Fee is capped and growth in public utility revenue does not grow overall FUF revenue, the bill results in reduced FUF revenue of up to $400,000.

High Cost Support Mechanism. The HCSM receives approximately $60 million from surcharges each year, of which $5 million will be reduced by the elimination of VoIP telecommunication providers from PUC regulation. Assuming that $5 million of revenue must be replaced annually, the surcharge will be adjusted from 2.6 percent to 2.9 percent. Between 6 million and 7 million telecommunications service ratepayers are estimated to contribute to the HCSM.

State Expenditures

The bill results in a minimal increase in the workload of the PUC in FY 2013-14. Following enactment of the bill, workload of the PUC increases to implement the bill. Specifically, in FY 2013-14, fees and rules affected by the bill will be modified. This temporary workload will be accomplished without requiring additional PUC meetings and will not require new appropriations. Due to the continued limited regulation of VoIP, the bill assumes that ongoing workload of the PUC is not significantly reduced by the bill.

Departments Contacted

Regulatory Agencies	Office of Information Technology	Counties
Public Safety	Personnel and Administration	Municipalities
Law	Revenue	Sheriffs