HB14-1329

Colorado Legislative Council Staff Fiscal Note

STATE
REVISED FISCAL IMPACT

(replaces fiscal note dated March 24, 2014)

Drafting Number:	LLS 14-0205	**Date:**	March 28, 2014
Prime Sponsor(s):	Rep. Williams; Murray Sen. Kerr; Scheffel	**Bill Status:**	House Appropriations
		Fiscal Analyst:	Alex Schatz (303-866-4375)

SHORT TITLE: DEREGULATE INTERNET PROTOCOL EMERGING TECH TELECOM

Fiscal Impact Summary*	FY 2014-2015	FY 2015-2016
State Revenue	Fee and surcharge adjustments.	
Cash Funds	See State Revenue section.	
State Expenditures	**<u>$44,810</u>**	
Cash Funds	39,436	
Centrally Appropriated Costs**	5,374	
FTE Position Change	0.4 FTE	
Appropriation Required: $39,436 - Department of Regulatory Agencies (FY 2014-15)		

* *This summary shows changes from current law under the bill for each fiscal year.*
** *These costs are not included in the bill's appropriation. See the State Expenditures section for more information.*

Summary of Legislation

This bill, ***as amended by the House Business, Labor, Economic, and Workforce Development Committee***, deregulates certain telecommunication products, services and providers. Specifically, the bill eliminates the authority of the Colorado Public Utilities Commission (PUC), in the Department of Regulatory Agencies, to regulate:

- advanced telephone services (e.g., call waiting, three-way calling) and premium (optional) telephone services;
- internet-protocol-enabled service and voice-over-internet protocol service (herein referenced collectively as VoIP);
- most long-distance services (interLATA and intraLATA tolling, see Technical Note);
- private line service with fewer than 24 lines;
- certain operator services; and
- any telecommunication product or service not otherwise defined or classified in statute for the purposes of PUC regulation.

The PUC retains authority to regulate "cramming" (unauthorized charges) and "slamming" (unauthorized changes of a carrier) by long-distance carriers.

The bill also amends and adds statutory definitions for certain telecommunication products, services, and providers subject to regulation and exempt from regulation. Finally, the bill clarifies that it does not affect the scope or effect of PUC authority relative to the wholesale telecommunications market, federal telecommunications programs, or basic emergency service (commonly known as 9-1-1).

Background

PUC revenue sources. Under current law, some, but not all, telecommunications providers using VoIP and other emerging technologies operate with a certificate of public convenience and necessity granted by the PUC and therefore contribute toward telecommunications funds governed by the PUC.

The Fixed Utilities Fund (FUF) pays for PUC operations, and is currently near its statutory rate cap for assessments on all public utilities. Due to this cap the loss of FUF revenue from deregulated telecommunications providers may not be completely offset by increases in assessments on remaining public utilities.

The High Cost Support Mechanism (HCSM) is collected only from telecommunications providers, subsidizing wireline service in high-cost locations (typically rural areas of the state). The HCSM surcharge is adjusted periodically, affecting at least 6 million telecommunications ratepayers (both residential and commercial accounts) across the state. VoIP and other services proposed for deregulation under the bill are estimated to contribute approximately $4.5 million of the $55 million collected by the HCSM annually.

Basic emergency service. Under current law, the PUC has authority to regulate basic emergency service, but this term is not defined in statute or PUC regulations. Basic emergency service includes so-called Next Generation 9-1-1 if it can be assumed that the PUC has the authority to regulate 9-1-1 service regardless of the technology employed to deliver that service.

State Revenue

By eliminating PUC regulatory oversight over VoIP and other specific products, services, and providers, the bill limits the ability of the PUC to exact fees, surcharges, and other revenue from telecommunications activity. This results in potential FUF fee and HCSM surcharge adjustments starting in FY 2014-15.

Fixed Utilities Fund. VoIP and other emerging technologies exempted from regulation by the bill presently contribute a relatively small amount of the $1.8 million in annual FUF revenue contributed by all telecommunications providers and $11.6 million from all public utilities. Based on this relatively small contribution, the fiscal note assumes that most to all lost FUF revenue will be offset by increased fees paid by remaining public utilities. To the extent that fee adjustments are limited by the statutory rate cap on FUF fees, the bill may result in a reduction in state revenue to the FUF.

High Cost Support Mechanism. The HCSM surcharge will be adjusted to offset the reduction of $4.5 million in HCSM surcharges under the bill. An adjustment on each account's billing from a surcharge of 2.6 percent to a surcharge of 2.9 percent is estimated to provide sufficient revenue to offset any potential HCSM revenue loss.

State Expenditures

To cover implementation costs in the PUC, the bill increases state expenditures from the Fixed Utilities Fund by **$44,810 and 0.4 FTE in FY 2014-15**. The cost components of these expenditures are summarized in Table 1. This expenditure is based on new one-time workload associated with rulemaking.

Table 1. Expenditures Under HB 14-1329	
Cost Components	**FY 2014-15**
Personal Services	$21,220
FTE	0.3
Legal Services (200 hrs. @ $91.08/hr.) (0.1 FTE)	18,216
Centrally Appropriated Costs*	5,374
TOTAL	**$44,810**

** Centrally appropriated costs are not included in the bill's appropriation.*

The effect of the bill on various telecommunications products, services, and providers will be clarified through a stakeholder process and rulemaking conducted by PUC staff in FY 2014-15. One-time expenditures will result in clarification of the legal consequences of the bill, particularly clarification of issues related to regulatory authority over 9-1-1 services.

The bill will result in fewer certificates of public convenience and necessity and a reduction in the overall number of regulated entities. However, a significant amount of existing workload associated with entities affected by the bill is based on regulation of the wholesale (carrier to carrier) telecommunications market and consumer complaints related to cramming and slamming. As a result, cost savings will be minimal.

***Centrally appropriated costs**.* 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 estimated in the fiscal note for informational purposes and summarized in Table 2.

Table 2. Centrally Appropriated Costs Under HB 14-1329*	
Cost Components	**FY 2014-15**
Employee Insurance (Health, Life, Dental, and Short-term Disability)	$1,844
Supplemental Employee Retirement Payments	1,474
Indirect Costs	2,056
TOTAL	**$5,374**

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

Technical Note

The bill exempts interLATA and intraLATA tolling services, common forms of long-distance service, from PUC regulation but does not repeal Section 40-15-306, C.R.S., which requires the PUC to regulate intraLATA interexchange telecommunication services. This statute will be repealed if House Bill 14-1331 is enacted, and the fiscal note assumes that, in any event, exemptions in the bill are sufficient to effectively eliminate PUC workload related to the regulation of long-distance services. The PUC's residual authority to regulate intraLATA interexchange services, if any, may be clarified by amendments.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2014-15, the bill requires a cash funds appropriation of $39,436 from the Fixed Utilities Fund to the Department of Regulatory Agencies, and an allocation of 0.3 FTE. Of this amount, $18,216 is reappropriated to the Department of Law for legal services.

Based on reappropriated amounts for legal services, the Department of Law requires an allocation of 0.1 FTE for FY 2014-15.

State and Local Government Contacts

Regulatory Agencies (PUC)