

Colorado Legislative Council Staff Fiscal Note



STATE FISCAL IMPACT

Drafting Number: LLS 14-1004**Date:** March 24, 2014**Prime Sponsor(s):** Rep. Williams; Murray
Sen. Nicholson; Kerr**Bill Status:** House Business, Labor, Economic,
and Workforce Development**Fiscal Analyst:** Alex Schatz (303-866-4375)**SHORT TITLE:** REGULATE BASIC LOCAL EXCHANGE SERVICE

Fiscal Impact Summary*	FY 2014-2015	FY 2015-2016
State Revenue	Potential fee adjustments. See State Revenue section.	
State Expenditures	<u>\$307,006</u>	
Cash Funds	270,335	
Centrally Appropriated Costs**	36,671	
FTE Position Change	2.6 FTE	
Appropriation Required: \$270,335 - 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 modifies the statutory framework for the regulation of local telephone service.

The bill limits, but retains, authority for the Colorado Public Utilities Commission (PUC) to regulate basic emergency service (emergency service) and the providers of basic local exchange service (basic service). Emergency service is subject to regulation unless the PUC approves a reclassification. In the case of basic service, the bill provides that:

- the High Cost Support Mechanism (HCSM) applies to landline and voice-over-internet protocol (VoIP) service even if the service is otherwise deregulated, and basic service providers continue to pay HCSM, emergency service, and telecommunications relay service charges;
- until July 1, 2016, rates are subject to PUC control and the incumbent local exchange carrier (ILEC) serves as a provider of last resort;
- on and after July 1, 2016, the PUC may regulate and control rates, providers of last resort, discontinuation of service, and general compliance only within those areas without effective competition that receive HCSM subsidies; and
- after July 1, 2018, the PUC may regulate basic service in accordance with findings made in a public hearing.

With the exception of wholesale telecommunications regulation, dispute resolution between carriers, and requirements related to emergency service, the bill eliminates the PUC's authority to regulate:

- long-distance telecommunications;
- the white page directory and other listed telephone number services;
- operator services;
- advanced features (e.g., call waiting, three-way calling) and premium services;
- "touch-tone" dialing;
- private telecommunications networks; and
- telecommunications services and products not otherwise classified under PUC statutes.

Funding from the High Cost Support Mechanism (HCSM) is available for any provider of local landline service in areas without effective competition, and HCSM funding may be used only to provide support for basic service in these areas. An eligible provider may receive the difference between the reasonable cost to provide service and, as determined by the PUC, a reasonable benchmark price for basic service.

Background

Basic service. Basic service, or basic local exchange service, is a term for telecommunications service that provides a dial tone and use of the switched access telephone network.

Telecommunications regulation. In 1984, federal litigation resulted in the nationwide divestiture of the American Telephone and Telegraph Company (AT&T). Following this action, fixed assets of the telephone system devolved to local and regional carriers, many of which operated as subsidiaries to AT&T prior to divestiture. These local and regional carriers are responsible for the provision and quality of telecommunications access for local customers.

The state and federal government concurrently regulate the telecommunications industry. In-state, or intrastate, services are the primary focus of the Colorado PUC. Under current law, the PUC classifies telecommunications providers according to the type of service and the competitiveness of the market served. Local exchange carriers (LECs) are telecommunication providers with fixed assets serving a specific geographic area. Under current law, LECs are commonly issued a certificate of public convenience and necessity for a local access and transport area (LATA), and the PUC then establishes with the LEC a set of tariffs and a price list for customer access to the telecommunications system. The PUC applies lesser degrees of regulatory oversight to emerging services and other competitive services.

Many features of Colorado telecommunications law implement, or are governed by, federal law. For example, the federal Telecommunications Act of 1996 contains criteria and provides federal subsidies for certain LECs designated as carriers of last resort (known as providers of last resort under Colorado law). The financial viability of LECs in every geographic area, to ensure universal telecommunications access, is an ongoing concern of both state and federal regulation.

PUC funding. Regulatory activities in the PUC related to telecommunications and other utilities are financed by the Fixed Utilities Fund (FUF). To fund the PUC and Office of Consumer Counsel (OCC), the Fixed Utilities Fund is authorized to receive fees assessed as a percentage of the revenue of all regulated utilities, including energy and telecommunications providers. The

FUF is currently collecting fees at a rate approaching the statutory cap of 0.2 percent of gross intrastate utility operating revenue. Under current law, the Department of Revenue (DOR) determines on an annual basis the fees to be paid from gross intrastate utility operating revenue, then collects those fees from utilities in quarterly installments. According to statute, the DOR must contribute 3 percent of fees collected to the General Fund while 97 percent of fees are deposited in the FUF. Public utilities in Colorado include approximately 440 telecommunication providers, five natural gas utilities, and two electric utilities.

State Revenue

This bill results in no net change to state revenue. The bill may require adjustments to fees paid by public utilities to maintain current budgets paid from the FUF.

Assumptions. The bill does not require an overall increase in cash funds revenue to the FUF to pay for implementation of the bill by the PUC and OCC in FY 2014-15 or any future fiscal year. Because increased expenditures occur on a one-time basis in FY 2014-15, these costs are absorbed within the FUF fund balance. Fee adjustments to address FUF fund balance occur, as needed, on a periodic basis under current law.

Fee impact on public utilities. The bill may increase fees collected into the FUF if the number of contributing public utilities is reduced, requiring a higher contribution level from the remaining utilities to maintain PUC regulatory capabilities.

State Expenditures

Revising telecommunication regulations by the PUC will increase state expenditures by **\$307,006 and 2.6 FTE in FY 2014-15**. These one-time costs to complete rulemaking are summarized in Table 1.

Table 1. Expenditures Under HB 14-1331		
Cost Components	FY 2014-15	FY 2015-16
Personal Services	\$153,376	
FTE	2.0	
Operating Expenses	1,900	
Capital Outlay	9,406	
Legal Services (1160 hrs. @ 91.08/hr.) (0.6 FTE)	105,653	
Centrally Appropriated Costs*	36,671	
TOTAL	\$307,006	\$0

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

Assumptions. Based on the scope of changes under the bill, timely implementation requires the PUC to dedicate resources exclusively to this work and hire additional staff (or a contractual equivalent) in FY 2014-15.

PUC. Driving one-time costs in FY 2014-15, rulemaking to implement the bill includes:

- modification of rules to reflect new mapping of areas without effective competition;
- establishment of HCSM collection and eligibility rules applicable to all providers; and
- setting the maximum price for basic service and benchmark pricing in HCSM areas.

This rulemaking process is supported by PUC staff, who perform expert analysis and present findings to the PUC in reports and formal hearings. The process requires legal services from the Department of Law, as well as administrative law officers that conduct the formal rulemaking.

The bill also creates work in FY 2014-15 and future fiscal years to process telecommunications provider applications concerning HCSM eligibility and rates and to monitor, audit, investigate, and enforce new procedures and standards under the bill, such as pricing for all ILECs until 2016. This ongoing workload is consistent with current caseload for entities that will be deregulated by the bill and is expected to result in no net change to PUC workload or expenditures.

Office of Consumer Counsel (OCC). The OCC in DORA is expected to intervene in rulemaking proceedings before the PUC. The OCC will assess implementation issues with the bill and represent consumer interests at hearings before the PUC. No estimate of OCC costs is estimated, but any increase in OCC workload that requires additional resources will be addressed in the annual budget process.

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 14-1331*		
Cost Components	FY 2014-15	FY 2015-16
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$12,314	
Supplemental Employee Retirement Payments	10,651	
Indirect Costs	13,706	
TOTAL	\$36,671	\$0

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

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 \$270,335 from the Fixed Utilities Fund to the Department of Regulatory Agencies, and an allocation of 2.0 FTE. Of this amount, \$105,653 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 0.6 FTE for FY 2014-15.

State and Local Government Contacts

Regulatory Agencies (PUC)