



**Drafting Number:** LLS 15-0626  
**Prime Sponsor(s):** Rep. Esgar

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**Bill Status:** House Transportation & Energy  
**Fiscal Analyst:** Erin Reynolds (303-866-4146)

**BILL TOPIC:** PUBLIC UTILITIES COMMISSION MEMBERSHIP GEOGRAPHIC REPRESENTATION

Fiscal Impact Summary*	FY 2015-2016	FY 2016-2017
<b>State Revenue</b>	<u>\$77,320</u>	<u>\$713,024</u>
General Fund	2,320	21,391
Cash Funds	75,000	691,633
<b>State Expenditures</b>	<u>\$75,000</u>	<u>\$691,633</u>
Cash Funds	75,000	624,489
Centrally Appropriated Costs**		67,144
<b>TABOR Set-Aside</b>	\$77,320	\$713,024
<b>FTE Position Change</b>		5.0 FTE
<b>Appropriation Required:</b> \$75,000 – Department of Regulatory Agencies (FY 2015-16).		

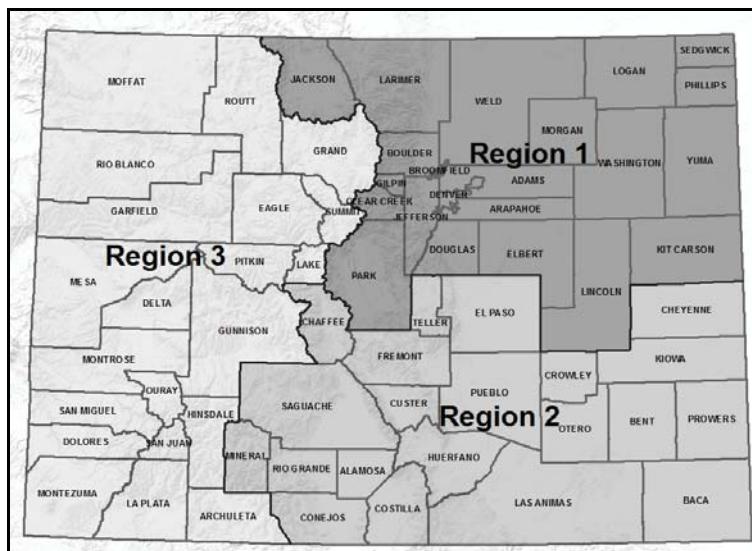
\* This summary shows changes from current law under the bill for each fiscal year.

**\*\* These costs are not included in the bill's appropriation. See the State Expenditures section for more information.**

## **Summary of Legislation**

The bill increases the number of commissioners serving on the Public Utilities Commission (PUC) in the Department of Regulatory Agencies (DORA) from three to five. Two commissioners are to serve at-large while the remaining three commissioners must reside in and represent geographic regions specified in the bill and displayed in Figure 1.

**Figure 1. Geographic Regions Represented by PUC Commissioners under HB15-1319**



## **Background**

**PUC Commissioners.** Under current law, the PUC consists of three commissioners whose salaries are determined by the executive director of DORA pursuant to a statutory formula. The Governor appoints and designates one commissioner to serve as chairman, currently earning a salary of \$130,872, while the other Governor-appointed commissioners currently earn a salary of \$120,588. Commissioners are appointed to terms of four years, and require Senate confirmation. State law requires that commissioners devote their entire time to the duties of the office, to the exclusion of any other employment. Commissioners must also refrain from holding any stocks or bonds of any corporation subject to PUC regulation. All commissioners are required to be qualified electors of the state, and no more than two commissioners may affiliate with the same political party. A majority of PUC commissioners (two) constitutes a quorum for purposes of transacting PUC business.

**PUC duties.** The PUC promulgates rules and regulations for public utilities which include investor-owned electric, gas, and water utilities, and intrastate telecommunications services. It holds hearings on rate increase requests for these utilities. It also has partial regulatory oversight for rural electric associations and municipal utilities. In addition, the PUC regulates transportation utilities, such as railroads and motor carriers for hire.

**PUC staff support.** Currently, the PUC staff consists of 3.0 FTE commissioners, 8.0 FTE rate/financial analysts, 1.0 FTE professional engineer, 1.0 FTE director (general professional VI), and 2.0 FTE administrative assistant III, for a total of 15.0 FTE. The PUC also employs the equivalent of 4.0 FTE of legal services (7,200 hours) at an annual cost of approximately \$2.4 million.

## **State Revenue**

**Fixed Utility Fund.** This bill is expected to create an increase in state revenue by **\$77,320 in FY 2015-16**, of which \$75,000 will be credited to the Fixed Utility Fund (FUF) and \$2,320 to the General Fund, and by **\$713,024 in FY 2016-17** and each year thereafter, of which \$691,633 will be credited to the FUF and \$21,391 to the General Fund. The costs incurred by the PUC as a result of this bill and discussed in the State Expenditures section will be paid from the FUF.

The FUF receives its revenues from an annual fee assessment based on a statutory formula that utilizes a 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 recover direct and indirect costs, plus pay an additional three percent to the General Fund. Thus, cash fund revenues will have to be increased sufficiently to cover the DORA's direct expenses discussed in the State Expenditures section and detailed in Table 1, plus credit 3 percent to the General Fund.

**FUF Balance.** There is a statutory cap on the fee that may be assessed on a public utility to cover PUC administrative expenses. The cap is one-fifth of one percent of gross intrastate utility operating revenue for the preceding calendar year. Assessment revenues have been generally declining over the past five years, and it is uncertain that fee revenue to the FUF and existing reserve levels in the current fiscal year will be sufficient so support the expenditures in this bill. In the event that the FUF lacks sufficient funds, the use of General Fund may be required.

## **TABOR Impact**

The bill increases state revenue by \$77,320 in FY 2015-16 and by \$713,024 in FY 2016-17, which will increase the amount required to be refunded under TABOR by an equivalent amount. TABOR refunds are paid by the General Fund.

## **State Expenditures**

The bill will increase state expenditures in DORA by **\$75,000 in FY 2015-16** and by **\$691,633 and 4.0 FTE in FY 2016-17** and each year thereafter. Expenditures are outlined in Table 1 and detailed below.

<b>Table 1. Expenditures Under HB15-1319</b>		
<b>Cost Components</b>	<b>FY 2015-16</b>	<b>FY 2016-17</b>
Personal Services		\$574,877
FTE		5.0 FTE
Operating Expenses and Capital Outlay Costs		22,612
Travel Expenses		27,000
Hearing Room Modifications	\$75,000	
Centrally Appropriated Costs*		67,144
<b>TOTAL</b>	<b>\$75,000</b>	<b>\$691,633</b>

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

**Assumptions.** The bill states that three commission members must reside in specific geographic regions; however, the fiscal note assumes that these three commissioners will not maintain regional offices and will work in Denver. The fiscal note also assumes that the bill does not affect PUC caseload, but will impact preparation time for PUC business and length of hearings.

**Commissioner salaries.** Under the bill, 2.0 FTE commissioners are added to the PUC. Commissioners earn an annual salary of \$120,588 and are authorized by statute to employ advisory and legal services staff.

**PUC administration.** Increasing the number of PUC commissioners by two results in additional PUC staffing, operational, legal services, and travel costs. The PUC will require 2.0 FTE of additional support staff, including one rate/financial analyst to conduct research on emerging issues and provide general advisory support, and one administrative staff to provide scheduling, correspondence, and travel support.

**Legal services.** Legal services equivalent of 1.0 FTE (1800 hours at \$94.51 per hour) are required to provide legal consultation to the two additional commissioners.

**Hearing room modifications.** The current PUC hearing room, which was last updated in 2010 in order to accommodate the PUC's paperless initiative, can only support three commissioners at the bench. The bench must be rebuilt or reconfigured to accommodate five commissioners. In addition, two new electronic workstations must be purchased and the room wired to accommodate the new bench and additional technology.

**Information technology.** The PUC e-filing system needs to be modified by the Office of Information Technology (OIT) in order to give additional commissioners private access. This workload is expected to be absorbed within existing OIT workloads.

**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 below.

<b>Table 2. Centrally Appropriated Costs Under HB15-1319*</b>		
<b>Cost Components</b>	<b>FY 2015-16</b>	<b>FY 2016-17</b>
Employee Insurance (Health, Life, Dental, and Short-term Disability)		\$32,507
Supplemental Employee Retirement Payments		34,637
<b>TOTAL</b>	<b>\$0</b>	<b>\$67,144</b>

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

## **Technical Issues**

Teller and Broomfield counties are included in the fiscal note under Figure 1, but are not specifically listed in the bill. A technical amendment is expected to include these counties in the regions specified by the fiscal note in Figure 1.

## **Effective Date**

The bill takes effect August 5, 2015, if the General Assembly adjourns on May 6, 2015, as scheduled, and no referendum petition is filed. Commissioner appointments are to be made effective July 1, 2016.

## **State Appropriations**

In FY 2015-16, the Department of Regulatory Agencies requires a cash fund appropriation of \$75,000 from the Fixed Utility Fund.

## **Departmental Difference**

DORA requested 1.0 FTE in FY 2015-16 to establish new support staff for the two new commissioners under the bill at an additional cost of \$103,344 in FY 2015-16. In FY 2016-17 and each year thereafter, DORA requested an additional 2.0 FTE support staff, including one rate/financial analyst and one engineer, to serve as policy advisors to the new commissioners at an additional cost of \$209,678. DORA assumes that workload correlates with the number of commissioners, while the fiscal note assumes that workload is more closely related to PUC workload and that the PUC can absorb a certain amount of new workload impact within existing staff resources.

## **State and Local Government Contacts**