SB 19-236

Legislative Council Staff
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REVISED FISCAL NOTE

(replaces fiscal note dated April 18, 2019)

Drafting Number:	LLS 19-0353	**Date:**	April 25, 2019
Prime Sponsors:	Sen. Garcia; Fenberg Rep. Hansen; Becker	**Bill Status:**	House SVMA
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Bill Topic: SUNSET PUBLIC UTILITIES COMMISSION

Summary of Fiscal Impact:

☒ State Revenue
☒ State Expenditure
☐ State Transfer
☐ TABOR Refund
☐ Local Government
☐ Statutory Public Entity

Sunset bill. Senate Bill 19-236 continues the Public Utilities Commission in the Department of Regulatory Agencies, which is scheduled to repeal on September 1, 2019. State fiscal impacts include both new state revenue and expenditure impacts from changes required by the bill, as well as the continuation of the commission's current revenue and expenditures. The PUC is continued through September 1, 2026.

Appropriation Summary: For FY 2019-20, the bill requires and includes an appropriation of $467,034 to the Department of Regulatory Agencies.

Fiscal Note Status: The revised fiscal note reflects the reengrossed bill.

Table 1
State Fiscal Impacts Under SB 19-236*

New Impacts		FY 2019-20	FY 2020-21
Revenue	Cash Funds	$533,839	at least $112,357
Expenditures	Cash Funds	$533,839	at least $112,357
	FTE	4.6 FTE	1.5 FTE

Continuing Program Impacts		FY 2019-20	FY 2020-21
Revenue	Cash Funds	-	$18,560,768
Expenditures	Cash Funds	-	$18,560,768
	FTE	-	91.3 FTE

* *Table 1 shows the new impacts resulting from changes to the program under the bill and the continuing impacts from extending the program beyond its current repeal date. The continuing program impacts will end if the bill is not passed and the program is allowed to repeal.*

Summary of Legislation

This bill continues the Public Utilities Commission (PUC) in the Department of Regulatory Agencies (DORA) for seven years.

The bill implements the following recommendations from the sunset review:

- authorizes the PUC to promulgate rules to delegate routine, administrative transportation matters to staff and makes related clarifications;
- provides public utilities alternate forms of communication to notify customers of rate changes and requires rate changes to be posted on utilities' websites;
- transfers the administration of the Legal Services Offset Fund from the Department of Law to DORA;
- makes technical changes regarding criminal background checks;
- repeals a requirement that an electric utility purchase a certain amount of energy from community solar gardens;
- repeals a requirement that the PUC, in considering an electric utility's proposal for generation acquisition, give consideration to proposals related to integrated gasification combined cycle generation facilities; and
- clarifies that the PUC may impose a civil penalty for a violation of railroad crossing safety regulations.

In addition, the bill makes the following changes:

- requires the PUC to promulgate rules establishing requirements for investor-owned utilities to file electric distribution plans, and outlines additional requirements for this process;
- requires investor-owned utilities to include a workforce transition plan when proposing the retirement of an electric generating facility;
- directs the PUC to require electric public utilities to consider the cost of carbon dioxide emissions in certain proceedings; and
- authorizes the PUC to regulate vehicle booting companies through the issuance of permits and enforcement mechanisms including inspections, civil penalties, and permit revocations.
- requires the PUC to conduct an investigation of financial performance-based incentives and performance-based metric tracking to identify mechanisms that may align utility operations, expenditures, and investments with public benefit goals through an investigatory proceeding, and requires the PUC to report to the energy committees of the General Assembly by the end of 2020 on its findings;
- requires the PUC to open a nonadjudicatory proceeding to conduct a survey of public utility wholesale and retail rates and consider recommendations that would result in rate relief in certificated utility territories with retail rates materially greater than the state average and report on results to the energy committees of the General Assembly by February 1, 2021; and
- requires a utility to reference the docket numbers of relevant rules or adjudicatory matters when submitting an e-filing to the PUC.

The PUC is repealed on September 1, 2026, pending a sunset review.

Background

PUC funding. The Fixed Utilities Fund, the Telecommunications Utilities Fund, and the Motor Carriers Cash Fund pay for PUC operating expenses. Revenue to the Fixed Utilities Fund and the Telecommunications Utilities Funds comes from fees assessed against regulated electric, natural gas, and telecommunications utilities at a rate set annually based on the amount needed to cover applicable PUC and other utility regulation expenditures in DORA. The rate is applied to each regulated company's gross intrastate utility operating revenues, as calculated by the Department of Revenue. The rate of Fixed Utilities Fund assessments for electric and natural gas utilities is capped at 0.25 percent of gross revenue, while the rate of Telecommunications Utilities Fund assessments for telecommunications utilities is capped at 0.20 percent of gross revenue. Historically, 3 percent of public utilities fees to the Fixed Utilities Fund were credited to the General Fund. Pursuant to House Bill 16-087 and House Bill 16-1186, the 3 percent is diverted to the Fixed Utilities Fund for federal transportation grant matches for rail fixed guideway system safety oversight responsibilities, and then to the Highway Rail Crossing Signalization Fund. The Motor Carriers Cash Fund is supported primarily through fees on regulated motor carriers.

Continuing Program Impacts

Based on the PUC's FY 2017-18 budget, the commission is estimated to have continuing revenue and expenditures of $18,560,768 and 91.3 FTE, including $4,643,093 in centrally appropriated costs. If this bill is enacted, these revenue and expenditures amounts will continue for the program starting in FY 2020-21; continuing revenue is subject to TABOR. If this bill is not enacted, the program will end on September 1, 2020, following a wind-down period, and state revenue and expenditures will decrease starting in FY 2020-21 by these amounts. The changes to the program that drive additional revenue and costs are discussed in the State Revenue and State Expenditures sections below.

State Revenue

As discussed in the background section, PUC costs are paid by fees assessed on regulated utilities. State cash fund revenue to these funds, primarily to the Fixed Utilities Fund, will increase to cover the expenditures outlined below by at least $533,839 in FY 2019-20 and at least $112,357 in FY 2020-21. The bill may also minimally increase state General Fund revenue from civil penalties.

Fee impact on regulated utilities. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. The PUC will increase fees on regulated utilities to pay for the costs under the bill. These fee increases have not been estimated and will be set administratively by the PUC based on cash fund balance and new program costs, and will be borne primarily by the Fixed Utilities Fund as the changes required under the bill primarily impact that sector.

Civil penalties. The bill authorizes the PUC to collect civil penalties related to railroad crossing violations and on vehicle booting companies that fail to comply with the law; civil penalties are credited to the General Fund. The fiscal note assumes that this revenue increase will be minimal.

State Expenditures

The bill will increase state cash fund expenditures by $533,839 and 4.6 FTE in FY 2019-20 and $112,357 and 1.5 FTE in FY 2020-21 primarily from the Fixed Utilities Fund as well as the Motor Carriers Cash Fund. These costs are shown in Table 2 and discussed below.

Table 2
Expenditures Under SB 19-236

	FY 2019-20	FY 2020-21
Department of Regulatory Agencies		
Personal Services	$332,502	$89,121
Operating Expenses and Capital Outlay Costs	$22,612	$1,425
Legal Services	$111,920	-
Centrally Appropriated Costs*	$66,805	$21,811
FTE – Personal Services	4.0 FTE	1.5 FTE
FTE – Legal Services	0.6 FTE	-
Total Cost	**$533,839**	**$112,357**
Total FTE	**4.6 FTE**	**1.5 FTE**

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

Public Utilities Commission. To meet the requirements under the bill, the PUC will require the following resources:

- *Electric distribution planning.* In FY 2019-20 only, the division requires 2.0 FTE Professional Engineer II; 1,080 hours of legal services; and 0.5 FTE Administrative Law Judge to accommodate the electric distribution planning process required by the bill. Under current rule, the extension of distribution facilities does not require a PUC process; therefore, the PUC does not have an electric distribution professional on staff to review these plans. Because the bill requires that utilities prepare electric distribution plans that include analysis at the circuit level, it is assumed that Xcel Energy and Black Hills Energy will be required to produce detailed information, representing approximately 100,000 data points for Xcel and approximately 10,000 data points for Black Hills. Engineers and legal services staff will review these data, with half the resources in an advisory role to the PUC and the other half in a trial staff role. The legal services costs reflect the hourly rate of $103.83 and necessitate the allocation of 0.6 FTE to the Department of Law. In addition, the utiliity's filings are estimated to require one week of hearings before an administrative law judge.

- *Regulation of vehicle booting businesses.* PUC will adopt rules to establish the permit fees, required insurance (if any), and enforcement policies for newly regulated vehicle booting businesses within the normal course of PUC business. It is assumed that there are five booting businesses in Denver and two in the City of Avon. Based on towing carrier-related complaint rates and assuming approximately 10 hours of workload per complaint, it is assumed that between 500 hours and 2,080 hours of an investigator is required beginning in FY 2019-20. The fiscal note assumes the upper range, necessitating 1.0 FTE Criminal Investigator and 0.5 FTE consumer assistance staff to handle the increased volume of complaints as well. If less complaints are received, this appropriation will be adjusted through the annual budget process.

- *Rate relief study.* It is assumed that the survey of public utility wholesale and retail rates is limited to a region and does not require a study of all rates. As such, no change in appropriations is required.

- *Other requirements.* The remaining requirements in the bill can be accomplished within existing PUC workloads and proceedings. This assumes that the study of electric and

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. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be $66,805 in FY 2019-20 and $21,811 in FY 2020-21.

Effective Date

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

State Appropriations

For FY 2019-20, the bill requires and includes an appropriation of $467,034 to the Department of Regulatory Agencies and an allocation of 4.0 FTE from the Fixed Utilities Fund and the Motor Carriers Cash Fund. The Department of Law is reappropriated $111,920 and an allocation of 0.6 FTE.

State and Local Government Contacts

Law Regulatory Agencies