Legislative
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HB19-1037

FINAL FISCAL NOTE

Drafting Number:	LLS 19-0098	**Date:**	May 21, 2019
Prime Sponsors:	Rep. Hansen; Esgar Sen. Donovan	**Bill Status:**	Postponed Indefinitely
		Fiscal Analyst:	Erin Reynolds | 303-866-4146 Erin.Reynolds@state.co.us

Bill Topic: COLORADO ENERGY IMPACT ASSISTANCE ACT

Summary of Fiscal Impact:

☒ State Revenue *(conditional)*
☒ State Expenditure *(conditional)*
☐ State Transfer
☐ TABOR Refund
☒ Local Government *(conditional)*
☒ Statutory Public Entity

This bill would have allowed a utility to apply to the Public Utilities Commission for a financing order authorizing it to issue securitized utility ratepayer-backed bonds when closing an electric generating facility. Permitted expenditures of bond proceeds included the purchase, building, or investment in least-cost electric generating resources or electricity storage and the provision of transition assistance to local governments and workers affected by the facility's retirement. Bonds repayments were to be made with a distinct charge on ratepayers. Conditionally, the bill would have increased state revenue and workload. Beginning in FY 2019-20, the bill would have increased workload in the newly created statutory public entity under the bill, the Colorado Energy Impact Assistance Authority.

Appropriation Summary: No appropriation was required.

Fiscal Note Status: This fiscal note reflects the reengrossed bill. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect. However, Senate Bill 19-236, which was enacted into law, contains similar provisions regarding bonding.

Summary of Legislation

This bill allows an electric utility to apply to the Public Utilities Commission (PUC) for approval of a financing order to issue securitized utility ratepayer-backed bonds when retiring an electric generating facility. If approved by the PUC, these Colorado Energy Impact Assistance (CO-EIA) bond proceeds are to be used by the utility to purchase, build, or invest in electric generating resources or electricity storage and to provide transition assistance to local governments and workers affected by the facility's retirement. The CO-EIA Authority is created as an independent body to administer the portion of the bond proceeds dedicated to transition assistance. CO-EIA bonds are to be repaid through a distinct charge on ratepayers. The bill specifies procedures and requirements of utilities and the PUC regarding financing order applications and approvals.

Public Utilities Commission process. The PUC is required to use its regular process for consideration of financing order applications and must engage outside consultants and counsel experienced in securitized, investor-owned electric utility ratepayer-backed bond financing to assist with the process. The bill stipulates that these consultants have a duty of loyalty solely to the PUC. Consultant costs incurred during the application, hearing, and approval process are to be included as financing costs of the CO-EIA bonds and are not an obligation of the state. If the utility's application is denied or withdrawn, the utility must pay these costs instead.

CO-EIA Authority. The CO-EIA Authority is a newly created statutory public entity consisting of a seven-member, Governor-appointed board that is authorized to direct bond proceeds to transition assistance and to cover its administrative costs. Board members serve without compensation but are entitled to expense reimbursement.

Transition assistance. At least 30 percent of transition assistance must be directed to payment of retraining costs or financial assistance for directly displaced workers and associated fuel production workers. Transition assistance may also include financial assistance, for up to five years, to local governments for losses of property tax revenue directly related to the retirement of an electric generation facility and to local governments where associated fuel facilities are located. The authority must take local input into consideration when providing transition assistance, including input from a local advisory committee composed of representatives from affected board of county commissioners, municipal government, school district, and local labor union.

Judicial review and administrative penalties. A party aggrieved by a financing order may petition for suspension and judicial review of the financing order in the Denver District Court. If the PUC determines that a utility's actions were inconsistent with the financing order, it may apply any remedies available, except for a remedy that has the effect of directly or indirectly impairing the bonds. Utilities are also subject to certain new administrative penalties related to failures to adhere to the process outlined in the bill.

Reporting requirements. The bill requires utilities to annually file a report with the PUC illustrating that CO-EIA revenue is applied solely to the repayment of CO-EIA bonds and other financing costs. The authority must also provide a financial statement and operating report to the General Assembly each year it provides transition assistance.

State Revenue

Conditional upon CO-EIA bond issuance, the bill may impact state revenue, as discussed below.

Grants. The Department of Local Affairs (DOLA) may receive grants from the CO-EIA Authority for use in transition assistance. Gifts, grants, and donations are not subject to TABOR.

State investment in CO-EIA bonds. If the CO-EIA bonds meet the legal requirements regarding public fund investment, the state may invest public funds in these bonds.

State Expenditures

Conditional upon CO-EIA bond issuance, the bill will increase workloads in the PUC, DOLA, the Judicial Department, and the Secretary of State's office, and may increase energy expenditures for the state. These impacts are discussed below.

Public Utilities Commission. Workload in the PUC will increase to review finance order applications, if filed. As these orders are required to be aligned with the existing electric resource planning process, this can be accomplished within the normal course of PUC business. Outside consultants and counsel experienced in securitized investor-owned electric utility customer-backed bond financing will perform a majority of the workload related to the CO-EIA bond arrangement, and the cost for these consultants will be financed through the bond.

Department of Local Affairs. DOLA may be consulted by the CO-EIA Authority when determining the direct impacts resulting from electric generating facility retirements. If DOLA receives transition assistance grants, it may also administer programs to affected communities, which would require additional staff to manage the process. To the extent additional resources are necessary, these will be sought through the annual budget process.

Division of Property Taxation. The Division of Property Taxation in DOLA performs property tax assessments on public utilities. If and when an application is processed and the CO-EIA Authority is looking to estimate compensation costs for lost property tax revenue to affected local governments, or where related fuel production is affected by the facility retirement, division workload may increase. To the extent additional resources are necessary, these will be sought through the annual budget process.

Judicial Department. Under the bill, a party aggrieved by the issuance of a financing order may petition for suspension and review of the financing order in the Denver District Court. The fiscal note assumes this judicial review will be minimally utilized, thus there is no tangible impact to the court system.

Secretary of State. The Secretary of State will maintain a record of the financing statement required under the bill and pursuant to the Uniform Commercial Code (UCC). The fiscal note assumes that parties will use the existing filing forms available through the UCC online filing system.

Ratepayer impacts. If a CO-EIA charge is assessed, the state, as a ratepayer, will see a CO-EIA charge on its utility bills. Because CO-EIA bonds are a financing mechanism, the impact to electricity costs are indeterminate and will depend on the cost of the new generation resources relative to those of the retired facility, as well as the terms of the bonds, including principal, term, interest rates, and any financing charges.

Local Government Impact

Transition assistance revenue. Local governments affected by an energy facility closure may receive fund disbursements from the CO-EIA Authority to provide transition assistance.

Local advisory committee to the CO-EIA Authority. Workload will increase for directly affected local governments in advising the CO-EIA Authority, particularly for appointed members to local advisory committees.

Statutory Public Entity

In FY 2019-20, the CO-EIA Authority board will be appointed. Revenue and expenditures will increase in the authority if it is required to provide transition assistance.

Effective Date

The bill was postponed indefinitely by the Senate Transportation and Energy Committee on April 25, 2019.

State and Local Government Contacts

Colorado Energy Office	Counties	District Attorneys
Governor	Information Technology	Judicial
Law	Local Affairs	Municipalities
Natural Resources	Personnel	Regulatory Agencies
Revenue	School Districts	Secretary of State
Special Districts		