Colorado Legislative Council Staff

SB16-061

REVISED FISCAL NOTE

(replaces fiscal note dated February 4, 2016)

FISCAL IMPACT: ☒ State ☒ Local ☐ Statutory Public Entity ☒ Conditional ☐ No Fiscal Impact

Drafting Number:	LLS 16-0567	**Date:**	March 29, 2016
Prime Sponsor(s):	Sen. Cooke; Sonnenberg	**Bill Status:**	Senate Appropriations
		Fiscal Analyst:	Marc Carey (303-866-4102)

BILL TOPIC: RATEPAYER PROTECTION CARBON DIOXIDE INCREASED COST

Fiscal Impact Summary	Fiscal Year Stay is Lifted	Next Fiscal Year	Next Fiscal Year	Final Year of CPP Implementation
State Transfer		**$0**	**$0**	**$0**
Ratepayer Protection Fund		> 5,477,000	> 5,477,000	> $5,163,467
General Fund		> (5,477,000)	> (5,477,000)	> (5,163,467)
State Expenditures		**$193,517**	**$184,728**	**$184,728**
Cash Funds		164,310	154,904	154,904
Centrally Appropriated Costs		29,207	29,824	29,824
FTE Position Change		2.0 FTE	2.0 FTE	2.0 FTE
Appropriation Required: $164,310 - Department of Regulatory Agencies (Fiscal Year after stay lifted)				
Future Year Impacts: Potential state revenue and expenditure increase.				

Summary of Legislation

This bill, ***as amended by the Senate Agriculture Committee,*** requires the Colorado Public Utilities Commission (PUC) to create a Ratepayer Protection program. The program is created to address the potential increased costs of compliance with the federal Environmental Protection Agency's (EPA) Clean Power Plan (CPP). The program will be designed to cover these costs through reimbursement of electric utilities from the Ratepayer Protection Fund rather than by utility customers. Reimbursement will be paid from the newly created Ratepayer Protection Fund administered by the Colorado Energy Office. The fund is to be financed by annual General Fund appropriations.

Background

Clean Plower Plan. The EPA published the final federal performance standards for carbon emissions from electric utilities on October 23, 2015. Under its authority in current law, the Department of Public Health and Environment's (CDPHE) Air Pollution Control Division will draft the state implementation plan (SIP) to implement the federal standards. The Air Quality Control Commission, which is charged with developing and maintaining a comprehensive air pollution prevention and control program for the state, will consider the CDPHE's SIP and any other proposals received from the public before the CDPHE submits the final SIP to the EPA. Under the federal Clean Air Act, the EPA may prescribe a federal implementation plan for Colorado if the CDPHE does not submit a SIP or if the SIP is not federally approved. On February 9, 2016, the United States Supreme Court issued a stay on the impact of the CPP, pending the resolution of legal challenges to the plan.

Several attempts have been made to model the impacts of CPP implementation. All studies were national in scope and use computable general or partial equilibrium models to estimate the impacts of the CPP on power costs and on the structure of the power sector, and in some cases impacts on other fossil fuel consumers in the energy and transportation sectors. All studies show declining power consumption and declining coal consumption; most project rising natural gas generation, depending on how much energy efficiency is increased.

The impacts on consumer electricity rates estimated in these studies vary widely, and are largely dependent on the underlying assumptions of the study. A survey of studies found that estimated impacts on average customer electricity rates between 2020 and 2030 ranged from 1.5 percent to 13 percent. In contrast, another study, not included in the survey, estimated that rates in 2030 declined by 28 percent because of the increase in participation in energy efficiency programs.

Clean Air — Clean Jobs Act. In anticipation of emission requirements for electric utilities under the federal Clean Air Act, House Bill 10-1365 enacted the Clean Air-Clean Jobs Act, which required that, by August 15, 2010, all rate-regulated utilities that own or operate coal-fired electric generating units—Public Service Company of Colorado, aka Xcel Energy, and Black Hills Energy—submit an emissions reduction plan for those units to the PUC. HB 10-1365 required that the emissions reduction plan be fully implemented by December 31, 2017. In testimony submitted to the PUC, Xcel Energy estimated a rate impact for the implementation costs incurred in 2016 of $0.05 per month for a typical residential customer, and $0.10 per month for a typical commercial customer.

State Transfers

The bill requires that administrative expenses for the PUC be paid from the newly created Ratepayer Protection Fund and specifies that these expenses may not exceed 3 percent of the annual average fund balance. Sufficient money must be transferred from the General Fund to cover both reimbursements for costs associated with CPP compliance and administrative expenses.

The administrative expenses identified in the State Expenditure section below imply transfers from the General Fund to the Ratepayer Protection Fund of at least $5.5 million in the first fiscal year after the stay is lifted and $5.2 million annually thereafter.

Additional transfers will be required once remittance amounts are known and utility reimbursements begin. This fiscal note assumes these will occur once utilities take specific actions and incur associated costs to comply with the CPP.

State Expenditures

This bill will increase expenditures in DORA by $193,517 and 2.0 FTE in the first fiscal year after the stay is lifted and $184,728 and 2.0 FTE FY thereafter These costs are conditional on the stay being lifted.

Public Utilities Commission — DORA. As part of the newly created Ratepayer Protection program, the PUC is required to periodically assess the ratepayer impacts for compliance with the CPP. Under its current authority, the PUC regulates the two rate-regulated, investor-owned utilities in Colorado. The PUC, however, has no regulatory authority over electric generation and transmission cooperatives, cooperative electric associations, state power authorities, or municipal utilities. This bill requires the PUC to assess the rate impacts of CPP compliance of all Colorado utilities with generation capacity subject to the CPP. It is therefore expected that the PUC will need to hire one Rate Financial Analyst II FTE and one Professional Engineer II FTE to review the detailed electric resource expansion models of these entities, the resulting cost data, and the impacts on ratepayers.

Table 1. PUC Expenditures Under Senate Bill 16-061

Cost Components	Fiscal Year after Stay is Lifted	Fiscal Year after Stay is Lifted
Personal Services	$153,004	$153,004
FTE	2.0	2.0
Operating Expenses and Capital Costs	11,306	1,900
Centrally Appropriated Costs*	29,207	29,824
TOTAL	**$193,517**	**$184,728**

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

Reimbursement of Retail Rates. This bill will increase General Fund expenditures for the reimbursement of utilities from the Ratepayer Protection Fund. Reimbursement will occur once utilities begin to take actions and incur costs to comply with the CPP. Currently, it is not known when the first reimbursements would occur.

Analysis of current emissions levels of Colorado utilities indicates a wide variance in the degree to which utilities are prepared to comply with CPP emissions requirements. Some utilities appear already to be in compliance with the requirements of the CPP, or at least on a trajectory such that compliance would not significantly alter their current resource acquisition plan. Other utilities will have to make significant changes to their portfolio of generation resources to ensure compliance.

This fiscal note assumes that it is the cost of such alterations, whether retirement of coal plants, construction of natural gas co-generation plants, power purchase agreements for renewable resource generation, or the implementation of energy efficiency programs, that utilities would receive reimbursement from the Ratepayer Protection Fund, in order to prevent utilities passing these costs along to customers. Without knowing which compliance strategies the utilities will employ, it is not possible to calculate an aggregate compliance cost for Colorado utilities, or an aggregate rate impact for utility customers.

Another complicating factor is the potential for the SIP to establish a system of emissions credit trading, either within the state or even with utilities in other states. Under such a system, utilities already in compliance could sell emissions credits to utilities out of compliance. While the costs of permit acquisition would need to be reimbursed just like other compliance costs, such a system results in minimum aggregate compliance costs.

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 Senate Bill 16-061

Cost Components	Fiscal Year after Stay is Lifted	Fiscal Year after Stay is Lifted
Employee Insurance (Health, Life, Dental, and Short-term Disability)	$16,114	$16,114
Supplemental Employee Retirement Payments	13,093	13,710
TOTAL	**$29,207**	**$29,824**

Local Government Impact

Several municipalities own and operate electric generation units or contract with power authorities that would be subject to CPP emissions requirements. This fiscal note assumes these local governments and authorities would be eligible for reimbursements, even though they are not rate-regulated by the PUC. Thus, these local governments and authorities would incur costs in administering the reimbursements.

Effective Date

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

State Appropriations

For FY 2016-17, the DORA requires a cash fund appropriation of $164,310 from the Ratepayer Protection Fund and an allocation of 2.0 FTE, conditional on the stay being lifted by June 30, 2016.

Technical Notes

The bill requires the PUC to administer the newly created Ratepayer Protection program. Administrative costs are to be covered with money credited to the newly created Ratepayer Protection fund but may not exceed 3 percent of the annual average fund balance. While the administrative costs identified in this fiscal note will require an annual average fund balance of at least $5.5 million in the first year after the stay is lifted and $5.2 million annually thereafter, the average annual balance of Ratepayer Protection fund is likely to be lower than this level, as money in the fund must be remitted quarterly to reimburse utilities for CPP compliance costs. If the fund balance is insufficient to cover PUC administrative costs, the PUC will require an additional General Fund appropriation.

State and Local Government Contacts

Regulatory Agencies | Public Health and Environment | Information Technology