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Final Fiscal Note

Drafting Number: LLS 24-0918 Date: July 22, 2024
Prime Sponsors: Rep. DeGraaf Bill Status: Postponed Indefinitely
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Bill Topic: ELECTRIC GRID RESILIENCE TEMPORARY CARBON DIOXIDE REGULATION

Summary of Fiscal Impact: [X] State Revenue [ ] State Transfer [X] Local Government
[X] State Expenditure [X] TABOR Refund [ ] Statutory Public Entity

The bill would have required the state to develop a geomagnetic storm contingency plan and prohibited the regulation of carbon dioxide as a pollutant. It would have increased state and local expenditures beginning in FY 2024-25, and may have reduced expenditures in future fiscal years.

Appropriation Summary: For FY 2024-25, the bill would have required appropriations totaling \$938,001 to multiple state agencies.

Fiscal Note Status: The final fiscal note reflects the introduced bill. This bill was postponed indefinitely by The House Energy and Environment Committee on March 13, 2024; therefore, the impacts identified in this analysis do not take effect.

Table 1
State Fiscal Impacts Under HB 24-1246

Table with 4 columns: Category, Sub-category, Budget Year FY 2024-25, and Out Year FY 2025-26. Rows include Revenue (Fixed Utility Fund, Total Revenue), Expenditures (General Fund, Fixed Utility Fund, Centrally Appropriated, Total Expenditures, Total FTE), Transfers, and Other Budget Impacts (TABOR Refund, General Fund Reserve).

## Summary of Legislation

The bill alters carbon dioxide reduction goals, requires the Public Utilities Commission (PUC) to adopt grid resilience measures, and prohibits the regulation of carbon dioxide as a pollutant.

**Emissions reductions from utilities.** Current law requires certain utilities to reduce carbon dioxide emissions by 80 percent by 2030 and 100 percent by 2050, from a 2005 baseline. The bill pushes these targets back ten years and requires that energy generated from clean energy resources comes from the least overall pollution-generating sources. It also requires the Department of Public Health and Environment (CDPHE), when it reports on carbon dioxide emissions reductions attributable to clean energy plans to the PUC, to report on the plans' impact on global temperatures and costs to achieve global temperature reductions.

**Electricity grid resilience.** The bill requires the PUC to develop a contingency plan to generate electricity following a geomagnetic storm. The plan must generate electricity from multiple sources; account for the economic and environmental impacts of the life-cycle of energy generation; and use both 50- and 100-year projections for system reliability. The bill specifies goals for the level of service provided and timelines depending on the strength of a geomagnetic storm. The PUC must also adopt rules requiring utilities to develop plans that incorporate the PUC's contingency plan and other measures to protect grid infrastructure.

**Carbon dioxide regulation.** The bill prohibits the state and local governments from classifying carbon dioxide as a pollutant or from enforcing any existing regulation of carbon dioxide as a pollutant.

## Background and Assumptions

Carbon dioxide is regulated by a variety of state and federal government programs. If this bill is adopted, some of these regulations will need to be revised in initial fiscal years, generating the costs described in this fiscal note. It is expected that these revisions will result in cost savings in the long-term by avoiding regulatory activities.

**Greenhouse gas emissions reduction goals.** Under current law, the state must reduce its greenhouse emissions relative to a 2005 baseline by 26 percent by 2025, 50 percent by 2030, 65 percent by 2035, 75 percent by 2040, and 100 percent by 2050. The fiscal note assumes that carbon dioxide will be removed from both the baseline and the upcoming targets. According to the 2021 Colorado Greenhouse Gas Inventory Update, carbon dioxide constitutes 69 percent of the state's baseline emissions.

**Federal regulations.** Some federal programs regulate carbon dioxide as a pollutant, and the fiscal note assumes that the state will still regulate carbon dioxide when required by federal law.

**Long-term cost savings.** The fiscal note assumes that the bill will require some regulatory activities to cease, resulting in cost savings. The expenditures described below are required to review and update state rules and regulatory programs for the exclusion of carbon dioxide, and any subsequent reduction in state expenditures will occur in later years and be addressed through the annual budget process.

**Geomagnetic storms.** A geomagnetic storm is a space weather phenomenon caused by solar activity. It creates strong magnetic fields that can damage satellites and terrestrial electronics, including electricity infrastructure.

## State Revenue

**Fixed Utility Fund.** The bill increases state cash fund revenue to the Fixed Utility Fund (FUF) by about \$510,000 in FY 2024-25 and \$580,000 in FY 2025-26. Administrative costs incurred by the PUC are paid from the FUF, which receives an annual assessment on the state's regulated utilities. Whenever additional expenses are incurred against the fund, the assessment must be raised to increase revenue to cover these expenses. This revenue is subject to TABOR.

## State Expenditures

The bill increases state expenditures in the PUC by about \$510,000 in FY 2024-25 and \$580,000 in FY 2025-26 only, paid from the Fixed Utility Fund. It also increases state expenditures in CDPHE by about \$360,000 in FY 2024-25 and FY 2025-26, paid from the General Fund. Finally, it increases state expenditures in the Colorado Energy Office by about \$210,000 in FY 2024-25 and \$240,000 in FY 2025-26, paid from the General Fund. Expenditures are shown in Table 2 and detailed below.

**Table 2**  
**Expenditures Under HB 24-1246**

	FY 2024-25	FY 2025-26
<b>Public Utilities Commission</b>		
Personal Services	\$387,497	\$469,968
Operating Expenses	\$5,248	\$6,400
Capital Outlay Costs	\$33,350	-
Centrally Appropriated Costs <sup>1</sup>	\$85,473	\$103,992
FTE – Personal Services	4.1 FTE	5.0 FTE
<b>PUC Subtotal</b>	<b>\$511,568</b>	<b>\$580,360</b>

**Table 2**  
**Expenditures Under HB 24-1246 (Cont.)**

	FY 2024-25	FY 2025-26
<b>Department of Public Health and Environment</b>		
Personal Services	\$161,173	\$189,615
Operating Expenses	\$2,176	\$2,560
Capital Outlay Costs	\$13,340	-
Legal Services	\$150,424	\$122,899
Centrally Appropriated Costs <sup>1</sup>	\$34,711	\$40,837
FTE – Personal Services	1.7 FTE	2.0 FTE
FTE – Legal Services	0.7 FTE	0.5 FTE
<b>CDPHE Subtotal</b>	<b>\$361,824</b>	<b>\$355,911</b>
<b>Colorado Energy Office</b>		
Personal Services	\$123,831	\$154,788
Operating Expenses	\$1,536	\$1,920
Capital Outlay Costs	\$13,340	-
Legal Services	\$46,087	\$46,087
Centrally Appropriated Costs <sup>1</sup>	\$26,612	\$33,266
FTE – Personal Services	1.2 FTE	1.5 FTE
FTE – Legal Services	0.2 FTE	0.2 FTE
<b>CEO Subtotal</b>	<b>\$211,406</b>	<b>\$236,061</b>
<b>Total</b>	<b>\$1,084,798</b>	<b>\$1,172,332</b>
<b>Total FTE</b>	<b>7.9 FTE</b>	<b>9.2 FTE</b>

<sup>1</sup> Centrally appropriated costs are not included in the bill's appropriation.

**Public Utilities Commission.** Costs will increase in the PUC to create the required contingency plan and adopt related rules covering utilities' contingency plans and infrastructure. This requires 5.0 FTE in FY 2024-25 and FY 2025-26 only, including an electric engineer, an environmental engineer, and an economist to develop the contingency plan, and a policy advisor and an administrative law judge to conduct the required rulemaking. Standard operating and capital outlay costs are included, and costs are prorated in the first year for the bill's effective date.

**Department of Public Health and Environment.** Expenditures will increase to conduct analyses of global temperature impacts and to evaluate existing regulations.

- **Staffing.** CDPHE requires 2.0 FTE beginning in FY 2024-25 to review energy plans and adopt changes into a model to predict impacts on global temperatures. Standard operating and capital outlay costs are included, and costs are prorated for the bill's effective date.
- **Legal services.** The department must evaluate existing rules and federal agreements and conduct rulemaking as necessary. The fiscal note assumes that where federal law requires regulation of carbon dioxide as a pollutant, no policy changes will be required. These requirements are estimated at 1,175 hours of legal services in FY 2023-24 and 960 hours in FY 2024-25. Legal services are provided by the Department of Law at a rate of \$128.02 per hour.

**Colorado Energy Office.** Expenditures will increase in FY 2024-25 and FY 2025-26 only to update policies and conduct rulemaking.

- **Staffing.** The office must update its policies, strategies, and support the rulemaking activities conducted by the Public Utilities Commission and the Air Quality Control Commission. Rulemaking is expected to be extensive, including Clean Energy Plans, Clean Heat Plans, greenhouse gas emissions reductions goals, and the social cost of carbon, and CEO requires 1.5 FTE in FY 2024-25 and FY 2025-26. Standard operating and capital outlay costs are included, and costs are prorated for the bill's effective date.
- **Legal services.** The rulemaking efforts require 360 hours of legal services each year. Legal services are provided by the Department of Law at a rate of \$128.02 per hour.

**Additional legal services.** Other state agencies, such as the Department of Transportation or the Department of Natural Resources, may require additional legal services from the Department of Law to update rules or provide general counsel. Should resources beyond what can be accommodated within existing appropriations be required, they will be addressed through 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. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

**Long-term impacts.** Over the long term, the bill may decrease state expenditures by reducing workload associated with regulating carbon dioxide.

## Other Budget Impacts

**General Fund reserve.** Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

## Local Government

To the extent that any local government regulates carbon dioxide as a pollutant, workload will increase workload to update regulations. Workload will increase for any municipal utility that must update its Clean Power Plan or Clean Heat Plan or that must develop contingency plans.

## Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

## State Appropriations

For FY 2024-25, the bill requires an appropriation of \$426,095 from the Fixed Utility Fund to the Department of Regulatory Agencies, and 4.1 FTE.

Additionally, for FY 2024-25, the bill requires the following General Fund appropriations:

- \$327,112 to the Department of Public Health and Environment, and 0.7 FTE. Of this, \$150,424 is reappropriated to the Department of Law, with an additional 0.7 FTE.
- \$184,794 to the Colorado Energy Office, and 1.2 FTE. Of this, \$46,087 is reappropriated to the Department of Law, with an additional 0.2 FTE.

## State and Local Government Contacts

Colorado Energy Office  
Public Health and Environment

Law  
Regulatory Agencies

Natural Resources  
Transportation

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The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).