



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated April 14, 2021)

Drafting Number: LLS 21-0365 Date: May 18, 2021
Prime Sponsors: Sen. Fenberg; Winter Bill Status: House Appropriations
Rep. Esgar Fiscal Analyst: Erin Reynolds | 303-866-4146
Erin.Reynolds@state.co.us

Bill Topic: SUNSET OFFICE OF CONSUMER COUNSEL

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

Sunset bill. This bill continues the newly renamed Office of the Utility Consumer Advocate and the Utility Consumers' Board in the Department of Regulatory Agencies through September 1, 2028.

Appropriation Summary: For FY 2021-22, the bill requires an appropriation of \$453,941 to the Department of Regulatory Agencies.

Fiscal Note Status: The revised fiscal note reflects the reengrossed bill, as amended by the House Energy and Environment Committee.

Table 1
State Fiscal Impacts Under SB 21-103^1

Table with 3 columns: Category, Budget Year FY 2021-22, Out Year FY 2022-23. Rows include New Impacts (Revenue, Expenditures, TABOR Refund) and Continuing Impacts (Revenue, Expenditures, TABOR Refund).

^1 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.

## **Summary of Legislation**

The bill continues the Office of the Consumer Counsel and the Utility Consumers' Board in the Department of Regulatory Agencies (DORA) for 7 years. The office is renamed as the Office of the Utility Consumer Advocate.

The bill implements the following recommendations from the sunset review:

- renames the office and changes the title of the office's head from consumer counsel to director;
- changes the board from a type 1 agency to a type 2 agency; and
- repeals the requirement that the board annually review the office's performance and confer with DORA's executive director regarding hiring and performance evaluation matters.

In addition, the bill:

- expands the office's scope to include statutory decarbonization goals, just transition, environmental justice, and telecommunications;
- allows the office to intervene in PUC proceedings regarding telecommunications services;
- prohibits the office from recommending any PUC action that would interfere with the administration or determination of employees' wages, health insurance, or retirement benefits negotiated between a regulated utility and a labor union through collective bargaining;
- requires the office to conduct its own legislative affairs, include lobbying, in matters that involve utility rates and charges, the provision of services, certificates of public convenience and necessity, and other matters that affect the public interest; and
- allows the director to petition the PUC to inspect the records of public utilities through subpoena or by conducting witness depositions.

## **Background**

The Office of Consumer Counsel represents the public interest and the specific interests of residential, small business, and agricultural consumers in rate and rulemaking cases before the PUC, federal agencies, and the courts. The Utility Consumers' Board is currently an 11-member board that provides policy guidance and oversight to the office.

## **Continuing Program Impacts**

Based on the department's FY 2021-22 budget request, the Office of the Utility Consumer Advocate is expected to have cash fund expenditures of \$1,034,167 and 7.0 FTE. If this bill is enacted, current expenditures will continue for the program starting in FY 2022-23. If this bill is not enacted, the program will end on September 1, 2022, following a wind-down period, and state expenditures will decrease starting in FY 2022-23 by the amounts shown in Table 1. The impacts from the bill's changes to the program are discussed in the State Expenditures sections below.

**State Expenditures**

The bill increases state General Fund expenditures by \$553,071 and 4.0 FTE in FY 2021-22 and \$674,874 and 5.0 FTE in FY 2022-23 in DORA. Expenditures are shown in Table 2 and detailed below.

**Table 2  
 Expenditures Under SB 21-103**

<b>Cost Components</b>	<b>FY 2021-22</b>	<b>FY 2022-23</b>
<b>Department of Regulatory Agencies<sup>1</sup></b>		
Personal Services	\$265,311	\$353,751
Operating Expenses	\$4,320	\$5,400
Capital Outlay Costs	\$24,800	-
Legal Services	\$159,510	\$191,412
Centrally Appropriated Costs <sup>2</sup>	\$99,130	\$124,311
FTE – Personal Services	3.2 FTE	4.0 FTE
FTE – Legal Services	0.8 FTE	1.0 FTE
<b>Total</b>	<b>\$553,071</b>	<b>\$674,874</b>
<b>Total FTE</b>	<b>4.0 FTE</b>	<b>5.0 FTE</b>

<sup>1</sup> Costs may be paid by the Fixed Utility Fund; see Technical Note.

<sup>2</sup> Centrally appropriated costs are not included in the bill's appropriation.

**Department of Regulatory Agencies.** The Office of the Utility Consumer Advocate requires 2.0 FTE Rate and Financial Analyst and 1.0 FTE Policy Advisor to address the four new policy areas under the bill. The analysts will perform financial work and analysis and the advisor will perform the non-financial work, outreach, and community engagement. The office also requires 1.0 FTE Liaison to manage legislative affairs and lobbying on behalf of the office, as required by the bill. In addition, legal services hours estimated at 1,800 hours per year, or 1.0 FTE, will be required to support the new policy areas. Standard operating and capital outlay costs are included for this new staff. First-year costs have been prorated for the bill's effective date and General Fund pay date shift.

Additional workload increases for office rebranding and materials updates, as well workload decreases resulting from the board no longer providing an annual review of the office's performance nor conferring with DORA's executive director on hiring and performance evaluation matters, require no change in appropriations.

## **Technical Note**

The PUC is currently assessing the statutory maximum 0.25 percent fee on the gross revenues of regulated electric and natural gas utilities and cannot increase the assessment beyond this cap without a change in law. While Office of Consumer Counsel and Utility Consumers Board expenditures are typically paid from the Fixed Utility Fund, this fiscal note assumes that there are insufficient funds in the Fixed Utility Fund at the present time to support the expenditures identified in the fiscal note. Therefore, General Fund appropriations are indicated. If the General Assembly revises the statutory maximum fee, these and future expenses may be paid from the Fixed Utility Fund.

## **Effective Date**

The bill takes effect September 1, 2021.

## **State Appropriations**

For FY 2021-22, the bill requires a General Fund appropriation of \$453,941 and 3.2 FTE to the Department of Regulatory Agencies. Of this amount, \$159,510 and an additional 0.8 FTE is reappropriated to the Department of Law.

## **State and Local Government Contacts**

Information Technology

Law

Regulatory Agencies