

**Legislative
Council Staff***Nonpartisan Services for Colorado's Legislature***FISCAL NOTE****Drafting Number:** LLS 20-0252
Prime Sponsors: Rep. Hooton**Date:** January 16, 2020**Bill Status:** House Energy & Environment**Fiscal Analyst:** Max Nardo | 303-866-4776
max.nardo@state.co.us**Bill Topic:** **PUC STUDY OF COMMUNITY CHOICE ENERGY**

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| Summary of
Fiscal Impact: | <input checked="" type="checkbox"/> State Revenue
<input checked="" type="checkbox"/> State Expenditure
<input type="checkbox"/> State Transfer | <input type="checkbox"/> TABOR Refund
<input type="checkbox"/> Local Government
<input type="checkbox"/> Statutory Public Entity |
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The bill requires the Public Utilities Commission to study the implementation of community choice energy in Colorado through a third-party study and an investigatory docket. The bill increases state expenditures in FY 2020-21 only.

**Appropriation
Summary:** For FY 2020-21, the bill requires an appropriation of \$778,637 to the Department of Regulatory Agencies.

**Fiscal Note
Status:** The fiscal note reflects the introduced bill, which was recommended by the Investor-owned Utility Review Interim Study Committee.

Table 1
State Fiscal Impacts Under HB 20-1064

		FY 2020-21	FY 2021-22
Revenue	Cash Funds	-	-
Expenditures	Cash Funds Centrally Appropriated	up to \$778,637 \$53,646	- -
	Total	up to \$832,283	-
	FTE	3.0 FTE	-
Transfers		-	-
TABOR Refund		-	-

Summary of Legislation

The bill directs the Public Utilities Commission (PUC) in the Department of Regulatory Agencies (DORA) to evaluate the viability of the wholesale, opt-out model of community choice energy (CCE) in Colorado. CCE is defined as a mechanism that allows cities, counties, or groups of cities and counties, to combine their purchasing power and choose alternative electricity suppliers while the incumbent utility continues to own and operate the transmission and distribution system. The PUC is directed to study CCE through a third-party feasibility study and an investigatory docket.

Third-party feasibility study. The PUC is directed to oversee a study on the financial and technical feasibility of allowing CCE in Colorado. The commission must select a qualified agent to perform the study and collect data necessary to conduct the study from investor-owned electric utilities. In addition to other components listed in the bill, the study must estimate any transition fees that communities forming a CCE authority would be required to pay their existing electric utilities and recommend legislative and regulatory modifications needed to implement CCE in Colorado. The commission must report the conclusions of the study to the energy committees of the General Assembly by November 30, 2020.

Investigatory docket. The PUC must open an investigatory docket by September 1, 2020, to consider the regulatory and legal implications of CCE legislation and provide recommendations to the General Assembly. In the proceeding, the PUC must accept testimony and documentation from a broad and inclusive range of stakeholders and presenters. Among other subjects outlined in the bill, the topics explored in the docket may include:

- whether the PUC requires additional statutory authority to conduct a rule-making concerning the creation of a CCE authority in Colorado;
- the appropriate scope of regulatory oversight of CCE operations, on a scale ranging from comprehensive to minimal;
- which aspects of current or anticipated investor-owned electric utility regulation by the PUC should apply to CCE authorities as well;
- the appropriate considerations for establishing reasonable exit fees;
- conditions for customer opt-out of CCE;
- regulatory and legal issues that have arisen in other states that have adopted this model;
- whether an investor-owned utility should also be the provider of last resort for electricity for customers who have opted out of CCE;
- the appropriate process for approval of CCE on behalf of customers within a jurisdiction; and
- what regulatory oversight should apply to resource procurement for CCE authorities.

The PUC must submit a report summarizing its findings and recommendations to the General Assembly by January 1, 2021. The conclusions should include best practices and lessons learned from other states on many aspects of CCE, as detailed in the bill.

State Revenue

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. While it is expected that there are sufficient resources in the Fixed Utility Fund at the present time to support the expenditures identified in the fiscal note, any increased spending from the fund increases the likelihood that the General Assembly will be required to increase or remove the statutory fee cap sooner or appropriate funds from other sources, such as the General Fund, to cover PUC costs in the future.

State Expenditures

For FY 2020-21 only, the bill increases state cash fund expenditures in DORA by up to \$832,283 from the Fixed Utility Fund. These expenditures are shown in Table 2 and described below.

Table 2
State Expenditures Under HB 20-1064

	FY 2020-21	FY 2021-22
Department of Regulatory Agencies		
Personal Services	\$274,587	-
Operating Expenses	\$4,050	-
Consultant for Technical and Feasibility Study	up to \$500,000	-
Centrally Appropriated Costs*	\$53,646	-
Total Cost	up to \$832,283	-
Total FTE	3.0 FTE	-

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

Department of Regulatory Agencies. Based on a recent comparable study, contracting with a consultant to conduct the technical and feasibility study is estimated to cost up to \$500,000. This cost is an estimate only; the actual cost will be determined through the competitive solicitation process. See Technical Note. In order to accomplish the study, DORA will require 1.0 FTE (two staff members for six months each) to develop the scope of the study and request for proposals, evaluate proposals, gather data from utilities for use in the study, and assist with preparation of the PUC's report to the General Assembly. DORA will require an additional 2.0 FTE (four staff members for six months each) to perform its dual role in completing the investigatory docket. Two staff will function like stakeholders by providing documents and testimony to the committee on the various aspects of CCE, while two additional staff advise and assist the PUC throughout the process and develop the report and recommendations for the General Assembly. These expenses will be paid from the Fixed Utility Fund.

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 \$53,646 in FY 2020-21.

Technical Note

The bill's reporting deadline of November 30, 2020, for the third-party feasibility study does not allow sufficient time to issue a competitive bid under the state procurement code and have the work completed.

Effective Date

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

State Appropriations

For FY 2020-21, the bill requires an appropriation of \$778,637 to DORA from the Fixed Utility Fund, and 3.0 FTE.

State and Local Government Contacts

Energy Office Regulatory Agencies