



HOUSE BILL 356: North Carolina Utilities Commission Regulatory Fee Changes

2015-2016 General Assembly

Committee:

Introduced by:

Analysis of: S.L. 2015-134

Date:

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SUMMARY: *S.L. 2015-134 increases the amount of funding reserves the Utilities Commission and the Public Staff may maintain, sets the utility regulatory fee in statute, partially increases the fee for the 2015 fiscal year, and authorizes the Commission to raise and lower the fee based on operating expenses.*

The provision of this act related to the increase in the reserve became effective June 30, 2015. Setting the rate for the utility regulatory fee in statute, increasing the fee for noncompetitive jurisdictional revenues, and authorizing the Commission to raise or lower the fee based on operating expenses became effective July 1, 2015.

CURRENT LAW: Currently, all public utilities operating in the State pay a regulatory fee that is a percentage of their jurisdictional revenues. The regulatory fee is used to pay the expenses incurred by the Utilities Commission and the Public Staff in regulating public utilities. The amount of the fee is set by the General Assembly.

S.L. 2014-59 amended the statute governing the regulatory fee paid by public utilities by dividing the revenues of public utilities into three categories, non-competitive jurisdictional revenues, subsection (h) competitive jurisdictional revenues, and subsection (m) competitive jurisdictional revenues. Subsection (h) and subsection (m) refer to alternative forms of regulation that telephone companies whose territory is open to competition from other local providers can elect. The Commission does not regulate the rates for companies that have elected to participate in subsection (h) or subsection (m) alternative regulation.

S.L. 2014-59 also set the rate for the regulatory fee for subsection (h) competitive jurisdictional revenues and subsection (m) competitive jurisdictional revenues. The rate for noncompetitive jurisdictional revenues was not set, but the act stated the noncompetitive jurisdictional rate "shall be adjusted to reflect the decrease in the total regulatory fee collected as a result" of the changes for subsection (h) and subsection (m) companies.

Section 14.19 of S.L. 2009-451 transferred the fund balances of several funds including the fund balances of the Utilities Commission and the Public Staff of the Commission, to the General Fund for the 2009 FY. The act also provided that any amount greater than 20% of the operating budget of these fund balances would transfer to the General Fund on June 30th of each year.

SESSION LAW ANALYSIS:

Budget reserve – S.L. 2015-134 repeals the 20% cap on the reserve of the Utilities Commission and the Public Staff. The Utilities Commission and Public Staff are authorized to maintain a reserve of up to 50% of their operating budgets, as reflected in the certified budget for the prior fiscal year.

Setting the fee in statute – S.L. 2015-134 sets the rate for noncompetitive jurisdictional revenues at 0.148%. The current rate is set at 0.135%. The amount of the regulatory fee has been traditionally set in



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the annual appropriations act, in uncodified language. This act sets the regulatory fee in the statute. The General Assembly retains the ability to change the fee each year.

The rate for subsection (h) and subsection (m) competitive jurisdictional revenues are also set out in statute in the act. However, the rate set for these revenues is unchanged from current law. The act codifies the rates set in S.L. 2014-59. The regulatory rates are as follows:

	2014-15 FY	2015-16 FY
Noncompetitive jurisdictional revenues	0.148%	
Subsection (h) competitive jurisdictional revenues	0.06%	0.04%
Subsection (m) competitive jurisdictional revenues	0.05%	0.02%

Authorizing the Commission to raise and lower the fee - The Commission is directed to monitor the estimated operating costs and reserve of the Commission and the Public Staff. If the Commission determines the rate for noncompetitive jurisdictional revenues is insufficient to meet the operating budget and reserve, the Commission may raise the fee up to 0.175%. If the Commission determines the rate on noncompetitive jurisdictional revenues will bring in revenues in excess of the operating budget and the reserve, the Commission must reduce the fee.

The Commission and the Public Staff are subject to the provisions of the State Budget Act, including the provision that limits entities to expending funds only as expressly authorized in an appropriation by the General Assembly. Regardless of the amount of the fee collected by the Commission and the Public Staff, these entities would only be authorized to use the fee as expressly authorized by the General Assembly.

EFFECTIVE DATE: The portion of the act related to the increase in the reserve became effective June 30, 2015. Setting the rate for the utility regulatory fee in statute, increasing the fee for noncompetitive jurisdictional revenues, and authorizing the Commission to raise or lower the fee based on operating expenses became effective July 1, 2015.