

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the Legislature. LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

FISCAL IMPACT REPORT

SPONSOR Jaramillo LAST UPDATED _____
ORIGINAL DATE 2/27/2023
BILL _____
SHORT TITLE Protected Utility Customer Data BILL NUMBER Senate Bill 342
ANALYST Dick-Peddie

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

| | FY23 | FY24 | FY25 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--|------------------|------------------|------------------|----------------------|------------------------------|------------------|
| | No fiscal impact | No fiscal impact | No fiscal impact | | | |

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Responses Received From

Public Regulation Commission (PRC)

New Mexico Attorney General (NMAG)

Commission of Public Records

SUMMARY

Synopsis of Senate Bill 342

Senate Bill 342 amends the Inspection of Public Records Act to include “Protected Utility Customer Data,” which it defines as data collected by an “automated utility metering that shows a person’s utility usage data in intervals shorter than the monthly billing cycle.” The bill provides that utility customer data contained in public records may be redacted by a public body before inspection or copying, and that un-redacted records containing such information “shall not be made available on publically accessible websites operated by or managed on behalf of a public body.”

According to the New Mexico Attorney General, the bill would primarily impact municipal utilities, since investor-owned utilities and rural electric cooperatives that fall within the PRC’s jurisdiction generally do not provide individual customers’ data to the agency, therefore their records are not public records for the purpose of the Inspection of Public Records Act.

This bill does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

FISCAL IMPLICATIONS

The Public Regulation Commission (PRC) projects no immediate fiscal impact from the bill, but notes that it may “require significant additional review of particular public records subject to disclosure under IPRA by PRC technical staff and attorneys to ensure that protected utility customer data has been redacted.” Further, PRC notes the agency could be financially liable if protected utility data were inadvertently released.

SIGNIFICANT ISSUES

NMAG and PRC note similar technical issues:

The bill is unclear whether protected utility customer data includes actual physical addresses or email addresses or personal phone numbers. This bill only protects utility usage data in intervals shorter than monthly billing cycles. Unless, this bill is revised to protect actual physical addresses, email or personal phone numbers, then IPRA would still require no redaction of that customer information. Also, the PRC does not require utilities to file protected utility customer data on a routine basis so the PRC would not then be the custodian of such data, rather it would be the utility.

ADP/al/ne