NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 1078 Third Edition

SHORT TITLE: Improve Air Quality/Electric Utilities

SPONSOR(S): Senator Metcalf, *et al*

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (X)**

	FY 2002-03	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07
REVENUES					
EXPENDITURES	No Estimate Available (See Assumptions and Methodology)				
POSITIONS:					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:

EFFECTIVE DATE: When it becomes law, except that G.S. 143-215.107D(i), as enacted by Section 1, is effective retroactively to June 1, 2002.

BILL SUMMARY: Senate Bill 1078 establishes limits on emissions of nitrogen and sulfur dioxide from large-scale coal-fired generating units owned or operated by investor-owned public utilities in the State. The bill also provides a mechanism for complying with the emissions limitations as well as a mechanism by which the investor-owned public utilities would amortize their estimated environmental compliance costs over seven years with a rate freeze for the first five years. Duke Energy must amortize $1.5 billion and Progress Energy must amortize $813 million. At least 70% of these amounts must be amortized during the rate freeze period with a maximum of 150% of the levelized amount in any one year. Before the end of the rate freeze period in 2007, the Utilities Commission may review the environmental compliance costs of each utility and determine annual recovery costs for 2008 and 2009. In later rate cases each utility can recover its actual costs less the amounts recovered earlier. The bill provides that the Governor may enter into an agreement with an investor-owned public utility under which the utility voluntarily agrees to transfer to the State certain emissions allowances that it may acquire as a result of complying with the bill. The bill requires the Environmental Management Commission to study and report on the desirability and feasibility of requiring emissions reductions beyond those required in the bill. The bill requires the Division of Air Quality of the Department of Natural Resources to study issues related to monitoring and controlling emissions of mercury from coal-fired generating units. The bill also requires the Division of Air Quality to study issues related to the control of carbon dioxide from coal-fired generating units and other stationary sources of air pollution.

ASSUMPTIONS AND METHODOLOGY: If SB 1078 becomes law, the basic rates paid by the State and other customers of Duke Energy and Progress Energy will be frozen through December 31, 2007, which is beyond the five-year period covered by this fiscal analysis. However, Duke Energy and Progress Energy will be investing an estimated $2.3 billion dollars in emission control equipment and much of these costs will be added to the utilities' cost of service during this period. Therefore, without the bill the utilities' costs would be lower and, other factors being equal, some or all of these lower costs presumably could be passed on to utility customers through the mechanism of general rate cases. However, because general rate cases consider all aspects of a utility's costs, the amount and timing of any reduction, and how it would be divided among customer classes, is entirely speculative and no estimate is available as to what savings might accrue to the State or other utility customers if SB 1078 were not passed.

The costs attributable to customers as a result of these investments can be roughly estimated. SB 1078 specifies how the utilities will amortize the expected costs of pollution control equipment over the next five years. Duke will be amortizing at least 70% of $1.5 billion over five years, or $210 million per year. According to the Public Staff, this is equivalent to approximately 0.4 cents per kilowatt-hour for North Carolina retail sales. Progress Energy will be amortizing at least 70% of $813 million over five years, or $114 million per year. This is equivalent to 0.3 cents per kilowatt-hour for North Carolina retail sales. The average for the two companies would be 0.35 cents per kilowatt-hour. With customers such as the State paying approximately 6 cents per kilowatt-hour for service (depending on their utility and usage pattern), the cost of implementing these emission reductions would be about 6% (0.35 cents per kilowatt-hour divided by 6 cents per kilowatt-hour). This cost is temporary, until it is fully amortized.

According to the Office of State Controller, the State paid approximately $123 million for electricity in FY2000-01. Not all of this was to Duke or Progress Energy, however, as many State facilities are served by municipal power systems, Electric Membership Corporations, or Dominion Resources. The total paid to Duke and Progress Energy is not known but it is assumed here that the State is paying Duke and Progress Energy about $100 million per year in total. The State's "share" of the costs of the investment is then 6% of $100 million, or roughly $6 million per year for five years. The remaining costs would then be recovered under procedures specified in the bill.

<u>Other Impacts</u>
Local governments served by Duke Energy and Progress Energy will also have their rates frozen and will also forego any potential rate decreases. No estimate is available for this potential impact.

The Department of Natural Resources believes that the studies required by the bill can be completed with existing resources and staff.

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