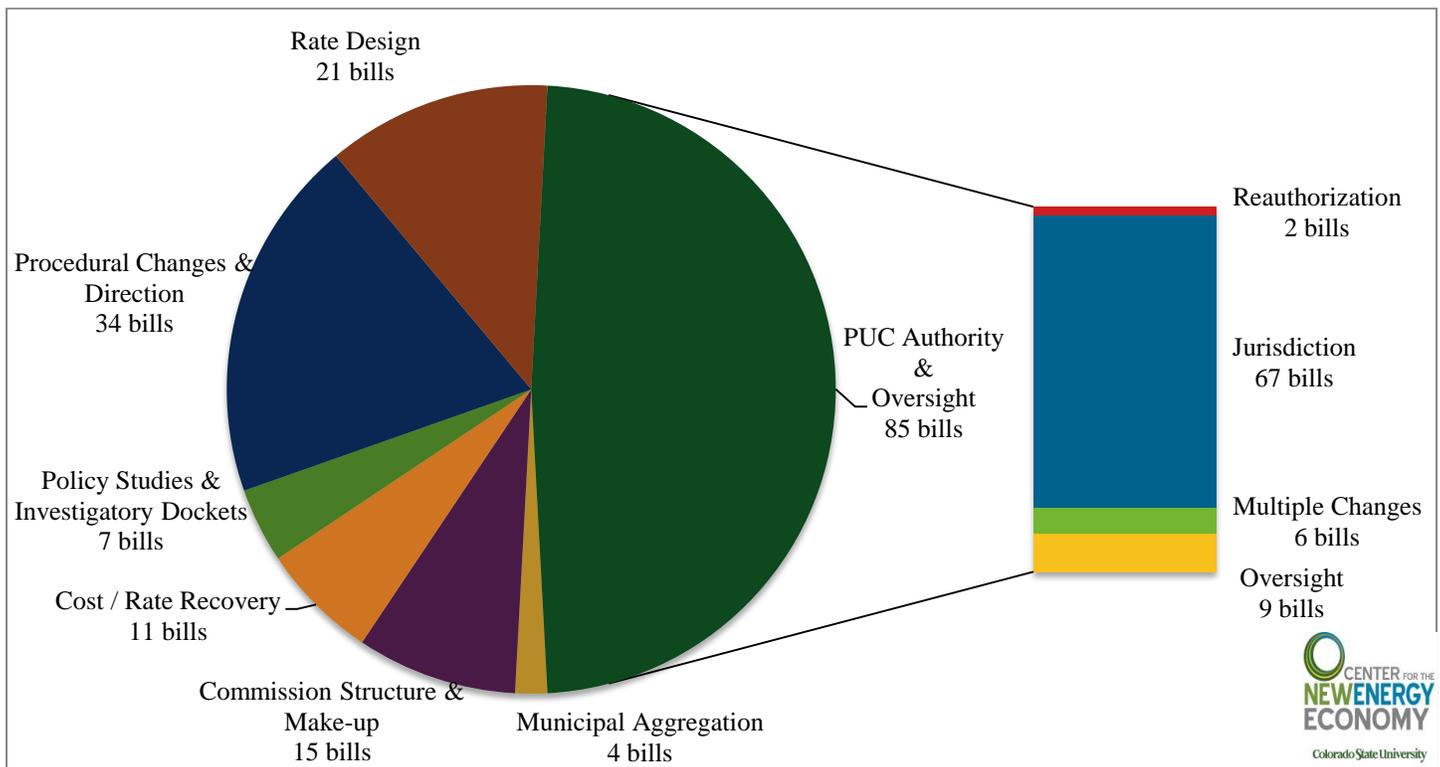




State Legislatures Active in Setting Public Utilities Commissions' Authority in 2013.

Public Utilities Commissions (PUCs) regulate rate setting, infrastructure investments, and other electric and gas utility business practices.¹ Because Utilities Commissions derive their authority from state statutes, legislators frequently play an important role in amending PUC authority. In the 2013 session, state legislators have introduced 176 unique proposals directed explicitly at PUCs. Figure 1, below, breaks these proposals out by policy types. This analysis focuses on the 40 enacted bills that will influence decision-making, commission structures, and ratepayers' interactions with regulated utilities.²

Figure 1. Breakdown of 2013 Proposals Impacting PUCs



Highlights:

1. Overall, commission authority has expanded slightly following the end of the 2013 session³.
2. Enacted changes to commission structures and make-up were relatively minor.
3. Legislation enacted to date makes only modest changes to procedural requirements.

The largest category of legislation proposed this session (84 bills) addressed commission authority and oversight of the state's PUC. Of these, the majority of proposals (53 bills) would expand a commission's authority, while the remainder (32 bills) would restrict authority in some manner. Bills in this category addressed multiple jurisdictional topics including general authorizations related to decision-making, program administration, and enforcement. Other proposals would

¹ The names of these commissions vary across the states. For simplicity, we refer to all such entities under the general term PUC.

² This analysis emphasizes enacted legislation affecting Utilities Commissioners; a future analysis will provide a broader examination of the regulatory bills in the AEL Tracker database.

³ Eight states remain in session. California's ends in September; Ohio, Wisconsin, Michigan, New York, Pennsylvania, Massachusetts, and New Jersey have year-round sessions.

provide for sunset reauthorization, or change evaluation procedures and reporting requirements related to legislative oversight. Of the 85 proposed bills, 21 were enacted.

Among enacted changes, Texas' [HB 1600](#) and Connecticut's [HB 6473](#) stand out for making multiple changes related to commission authority. Both bills expand PUC jurisdiction by adding new program or oversight responsibilities. The two bills also expand certain enforcement responsibilities. In Texas, the new act authorizes the issuance of cease and desist orders while Connecticut's new law amends provisions related to whistleblower protections.

Also within the authority and oversight category, 67 bills would have amended PUC jurisdictional authority. Of these, 13 were enacted. Enacted legislation included bills that would expand jurisdiction to additional utilities ([TX HB 2532](#)), that authorized the creation of new programs ([OR SB 844](#)), or that provided new authority ([HI SB 120](#)). Bills limiting jurisdiction include those that limit jurisdiction over certain utilities ([MS SB 2231](#)), return oversight authority to cooperative boards ([NC HB 223](#)), and that remove certain oversight responsibilities from commissions (HI HB 811).

A last notable sub-category in this category, 9 proposals related to legislative oversight of the state's PUC. Four minor changes were enacted. In Colorado ([HB 1027](#)) and Oklahoma ([HB 1525](#)) new annual reporting requirements were added, while Hawaii ([SB 1039](#)) and Texas ([SB 59](#)) enacted changes aimed at reducing paperwork.

The Center categorized the second largest collection of bills as procedural directions and change. These bills would amend specific tests, procedures, types of evidence, and public participation requirements that guide commission activities. Of the 34 proposals introduced this session, seven were enacted. In general, these new provisions relate to PUC participation in certain hearings ([MO HB 432](#)), commission proceedings ([NE LB 340](#)), public notice requirements ([MD SB 563](#)), and the publication of certain information ([HI HB 1405](#)).

Legislation relating to rate design (20 bills) and cost recovery (12 bills) comprises the next two largest portions of the proposed legislation this session. While rate design bills address general rate setting and scheduling of rate reviews, cost recovery bills address specific technologies or activities whose costs are eligible for recovery. Of the 20 proposals to amend rate design procedures, three were enacted. Two of these ([ID SB 1112](#) and [VA SB 1366](#)) made relatively minor changes, while Nevada's [AB 173](#) restricts the ability of utilities to impose residential rates based on the time of day during which the electricity is used. Bills addressing cost recovery fared slightly better: Six passed the legislature, but one was vetoed. Within this group, two bills govern new generation facilities ([FL SB 1472](#) and [MS HB 894](#)). Mississippi's [HB 1134](#) allows securitized financing of new generation. The remaining three bills govern cost recovery for gas infrastructure. Of these, Missouri's [SB 240](#) was vetoed.⁴

Bills addressing commission make-up and structure dealt with a range of topics including methods of commissioner selection, codes of conduct, educational or experiential qualifications, residency requirements, and staffing. Of these, three were enacted. These create new provisions governing staff ([HI SB 1042](#)), residency requirements ([AL HB 507](#)), and qualification requirements ([NM SB 8](#)).

Finally, the policy studies and investigatory docket category includes six proposals that would have required the initiation of a docket or other public process to evaluate or study technologies, programs, and policies related to energy. To date, none of these proposals has been enacted. The four bills related to municipal aggregation also died in session.

In summary, the Center has identified three major takeaways from PUC-related legislation this session:

1. The largest category of the legislation proposed this session addressed commission authority and legislative oversight. Within this category, the majority of enacted legislation (nine bills) expands authority, while six new acts retract it.
2. Changes to commission structures and make-up were relatively minor. Proposals to provide for the election of commissioners failed in Florida and Indiana.
3. While several proposals would have amended PUC procedures by requiring the implementation of new tools like cost-benefit analysis, peer review, and other methods of analysis to guide regulatory review and decision-making processes, enacted legislation makes only modest changes to public notice and disclosure requirements.

⁴ The veto letter is available here: <http://governor.mo.gov/newsroom/pdf/2013/sb240veto.pdf>.