SUMMARY and FISCAL NOTE*

Department:	Dept. Contact/Phone:	CBO Contact/Phone:
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** Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

1. BILL SUMMARY

Legislation Title:
AN ORDINANCE relating to the City Light Department; approving a ten-year franchise to construct, operate, maintain, replace, and repair an electrical light and power system in, across, over, along, under, through, and below certain designated public rights-of-way in unincorporated King County; and ratifying and confirming certain prior acts.

Summary and Background of the Legislation:
In 2016, the King County Council passed an Ordinance 18403 authorizing King County to receive compensation (i.e., rent) for use of the County right-of-way. The ordinance was challenged by several water districts, with the ordinance and King County's right to require payment for use of County rights-of-way ultimately being upheld by the Washington State Supreme Court (WSSC) in 2019.

In 2017, City Light and King County began negotiating a new franchise agreement to replace lapsed former franchises that would include a mechanism for compensation for use of the County right-of-way. This also included negotiations regarding compensation going back to 2018 (when King County notified the City of the requirement to pay compensation). Following the 2019 WSSC decision, King County and City Light agreed on a compensation method similar to the one City Light uses to compensate the suburban franchise cities, rather than the originally proposed rent methodology. Under the franchise agreement, City Light may charge higher rates to customers within that city and makes payments to the city based on a percentage of total retail revenue received from those customers. For almost all the franchise cities, this percentage is 6%.

In the new King County Franchise Agreement, the percentage compensation is referred to as "consideration" (Section 14). The consideration payment will be 2% higher for the first five years of the agreement to compensate for King County's foregone revenues from 2018 – 2022 and City Light will waive its 2% administration fee. Below is a chart summarizing the compensation collected from unincorporated customers and provided to King County.

2023 - 2027	8% of the total amount of Revenue billed to Franchisee's customers in unincorporated King County per calendar year
Beginning 2028	6% of the total amount of Revenue billed to Franchisee's customers in unincorporated King County per calendar year

Note, King County may also gain the right to levy a utility tax in the future, if they receive that taxing authority from the state. Counties are currently prohibited from imposing a utility tax. The new rates for these customers are included in the 2023 & 2024 Rates Ordinance adopted by the City Council in September 2022. They will go into effect on January 1, 2023 (assuming adoption of the Franchise agreement by King County Council and the Seattle City Council). We added a "ratify and confirm" clause to the ordinance in case the effective date of the ordinance is after January 1, 2023.

Other issues in the draft Franchise Agreement that required time to negotiate included the County's new Road Standards and the Hazardous Materials provisions. The County's revised Road Standards require that City Light's infrastructure conform with those standards over time. This is included in Section 10 (Roadside Management Plan). The new standards will require City Light to move certain above-ground distribution system equipment outside the identified "clear zone" of streets rights-of-way. This may require moving equipment fully outside the county right-of-way, which could entail obtaining private property easements or undergrounding of facilities. In response, City Light negotiated a Roadside Management Plan process that includes a full assessment of our facilities located within the "clear zone" prior to developing a Roadside Management Plan to remediate those facilities including a timeline which incorporates prioritization, capital funding availability and other factors identified in the assessment. City Light completed the assessment in 2021 and are prepared to begin work on the Roadside Management Plan in 2023. The Hazardous Materials provisions in Sections 11 & 15 were negotiated to include no release or indemnity for King County for County-caused hazardous substance releases in the right-of-way.

The initial term of the Franchise Agreement is ten years, with the ability to request an extension for an additional period of up to five years.

2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? **___ Yes _X_ No**

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget? **___ Yes _X_ No**

Does the legislation have other financial impacts to The City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?
No.

Are there financial costs or other impacts of *not* implementing the legislation?
No.

4. OTHER IMPLICATIONS

a. **Does this legislation affect any departments besides the originating department?**
Provides additional revenue for the General Fund through increased utility tax revenues.

b. Is a public hearing required for this legislation?
No

c. Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?
No

d. Does this legislation affect a piece of property?
No

e. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?
This legislation will increase retail rates for City Light customers in unincorporated King County, specifically, White Center and Skyway. These neighborhoods are home to many communities of color, immigrant populations, and non-English speakers (15% of residential customers are enrolled in the UDP). With this Franchise Agreement, electric bills for residents of these communities will increase by more than 10% on January 1, 2023, during the peak of the winter heating season. City Light plans to work with King County and community-based agencies to ensure a LAP is implemented to increase outreach to these communities this winter to intensify awareness of the Utility Discount Program, LIHEAP, and other emergency bill assistance. We also expect to apply a portion of the state arrearages funds to low-income customers in this area with large balances on their bill by the end of 2022.

f. Climate Change Implications

1. **Emissions: Is this legislation likely to increase or decrease carbon emissions in a material way?**
   NA

2. **Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle's resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.**
   NA

g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s)?
NA

Summary Attachments:
Summary Attachment A - Franchise Area Map & Description