

BILL SUMMARY & FISCAL NOTE

Department:	Contact Person/Phone:	Executive Contact/Phone:
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1. BILL SUMMARY

Legislation Title: AN ORDINANCE relating to the rates, terms and, conditions for the use and sale of electricity supplied by the City Light department; adding a new Section 21.49.088 to the Seattle Municipal Code to create a utility tax pass through; and amending Sections 21.49.020, 21.49.030, 21.49.040, 21.49.052, 21.49.055, 21.49.057, 21.49.081, and 21.49.100 of the Seattle Municipal Code to implement new distinct rates for the City of Lake Forest Park to allow for the potential addition of a utility tax.

Summary and background of the Legislation: This ordinance creates distinct rates for customers in the City of Lake Forest Park, and adds a section to the SMC to allow the pass-through of a suburban utility tax. The new utility tax pass-through allows the department to automatically implement rate and bill changes for customers outside the City of Seattle to collect utility taxes implemented by their local government.

Per its new franchise agreement, the City of Lake Forest Park may levy a 6% utility tax on or after January 1, 2016. The department will recover the full tax-adjusted impact of the new utility tax by increasing bills for Lake Forest Park customers.

Cities served by investor-owned utilities often collect revenue from a utility tax that is administered through the utility. For example, the city of Bellevue taxes its residents via Puget Sound Energy bills. In the past, this tax was not an option for suburban cities served by the department (a part of the City of Seattle) because it is not legal for a municipality to tax the revenue of another municipality.

However, in May of 2014, in a case involving the City of Wenatchee and Chelan County PUD, the State of Washington Court of Appeals ruled (31195-3-III) that one municipality may tax the revenue of a another municipality if the revenue is from activity that is proprietary in character rather than governmental. This ruling means that a suburban utility tax is permissible because the department's electric utility function is proprietary rather than governmental in nature.

The City of Lake Forest Park has expressed interest in a tax, and has added a provision in its recently adopted franchise agreement (adopted via Seattle City Council Ordinance 124806) that allows for the possibility of up to a 6% (the maximum under state law) utility tax to be implemented on or after January 1, 2016. It also permits the department to add the utility tax to the monthly bills of its Lake Forest Park customers. Since there are no state procedural requirements for implementing the tax, this could happen at any time and with little warning. Other suburban cities may also pursue implementing a tax in the future.

The department is implementing a new billing system that would allow adding the tax as a

separate line item to customer bills. However, this system will not be operational until mid-2016, and the current billing system does not have this feature. To implement a Lake Forest Park utility tax with the current billing system, all rates of Lake Forest Park customers would need to be increased by the effective tax rate of 7.132%. The effective tax rate is higher than the tax rate since all additional revenue collected to pay the tax is also taxed.

Because both the timing of the tax implementation and billing system status is uncertain, the ordinance allows the department to pass through any tax implemented by Lake Forest Park, or another suburban municipality. (At least one other municipality has expressed interest in the past.) The mechanism also provides the department some flexibility in how the tax is administered, to allow for uncertainty around billing system capabilities.

To allow for changes to Lake Forest Park rates, this ordinance also creates new distinct rate codes for all Lake Forest Park customer classes, as shown in the table below. Lake Forest Park customers are currently assigned “Suburban” rates, which are common to Unincorporated King County, Renton and Normandy Park.

Rate Code	Rate Class
RSL	Lake Forest Park Residential Standard
REL/RLL	Lake Forest Park Residential UDP
SML	Lake Forest Park Small General Service
MDL	Lake Forest Park Medium General Service
LGL	Lake Forest Park Large General Service

2. CAPITAL IMPROVEMENT PROGRAM

This legislation creates, funds, or amends a CIP Project.

3. SUMMARY OF FINANCIAL IMPLICATIONS

This legislation has direct financial implications

Budget program(s) affected:				
Estimated \$ Appropriation change:	General Fund \$		Other \$	
	2015	2016	2015	2016
Estimated \$ Revenue change:	Revenue to General Fund		Revenue to Other Funds	
	2015	2016	2015	2016
Positions affected:	No. of Positions		Total FTE Change	
	2015	2016	2015	2016
Other departments affected:				

Note: All incremental gross revenue of approximately \$500k is paid to the city of Lake Forest Park and to City and State Taxes.

3.a. Appropriations

This legislation adds, changes, or deletes appropriations.

3.b. Revenues/Reimbursements

This legislation adds, changes, or deletes revenues or reimbursements.

Anticipated Revenue/Reimbursement Resulting from this Legislation:

Fund Name and Number	Dept	Revenue Source	2015 Revenue	2016 Estimated Revenue
Light Fund	City Light	Retail Revenue	\$0	\$0*
General Fund	City Light	Incremental Utility Tax Revenue (6%)	\$0	\$32,000
TOTAL			\$0	na

Revenue/Reimbursement Notes:

*Note, gross revenue delta is approximately \$0.5 million, but this amount (less taxes) is paid to the City of Lake Forest Park. Net, the revenue impact for the department is approximately neutral.

3.c. Positions

This legislation adds, changes, or deletes positions.

4. OTHER IMPLICATIONS

a) Does the legislation have indirect or long-term financial impacts to the City of Seattle that are not reflected in the above?

No.

b) Is there financial cost or other impacts of not implementing the legislation?

If this legislation were not implemented, and the City of Lake Forecast Park implemented a utility tax, the department would be obligated to pay the City of Lake Forest Park a utility tax payment. If Lake Forest Park Rates were not designed (or could not be implemented quickly) then the cost would not be correctly allocated, and be borne by all ratepayers. This cost has not been budgeted for.

c) Does this legislation affect any departments besides the originating department?

No.

d) Is a public hearing required for this legislation?

No.

- e) **Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**
No.
- f) **Does this legislation affect a piece of property?**
No.
- g) **Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities?**
None.
- h) **If this legislation includes a new initiative or a major programmatic expansion: What are the long-term and measurable goals of the program? Please describe how this legislation would help achieve the program's desired goals.**
N/A
- i) **Other Issues:**

List attachments below: