

Multiple Agency Fiscal Note Summary

Bill Number: 6034 E S SB AMH TED H4883.1	Title: PUD retail telecom. service
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Estimated Cash Receipts

Agency Name	2017-19		2019-21		2021-23	
	GF- State	Total	GF- State	Total	GF- State	Total
Office of State Treasurer	Non-zero but indeterminate cost and/or savings. Please see discussion.					
Office of Administrative Hearings	Non-zero but indeterminate cost and/or savings. Please see discussion.					
Department of Revenue	Non-zero but indeterminate cost and/or savings. Please see discussion.					
Total \$	0	0	0	0	0	0

Estimated Expenditures

Agency Name	2017-19			2019-21			2021-23		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Office of State Treasurer	.0	0	0	.0	0	0	.0	0	0
Department of Commerce	.0	0	0	.0	0	0	.0	0	0
Office of Administrative Hearings	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Department of Revenue	.0	0	0	.0	0	0	.0	0	0
Utilities and Transportation Commission	.0	0	0	.0	0	0	.0	0	0
Total	0.0	\$0	\$0	0.0	\$0	\$0	0.0	\$0	\$0

Local Gov. Courts *									
Loc School dist-SPI									
Local Gov. Other **	Fiscal note not available								
Local Gov. Total									

Estimated Capital Budget Impact

NONE

Prepared by: Kathy Cody, OFM	Phone: (360) 902-9822	Date Published: Preliminary 3/ 1/2018
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* See Office of the Administrator for the Courts judicial fiscal note

** See local government fiscal note

FNPID: 52758

FNS029 Multi Agency rollup

Individual State Agency Fiscal Note

Bill Number: 6034 E S SB AMH TED H4883.1	Title: PUD retail telecom. service	Agency: 090-Office of State Treasurer
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Part I: Estimates

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No Fiscal Impact

Estimated Cash Receipts to:

Non-zero but indeterminate cost. Please see discussion.

Estimated Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

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If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.

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If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).

☐

Capital budget impact, complete Part IV.

☐

Requires new rule making, complete Part V.

Legislative Contact: Serena Dolly	Phone: 360-786-7150	Date: 02/24/2018
Agency Preparation: Dan Mason	Phone: 360-902-9090	Date: 02/26/2018
Agency Approval: Dan Mason	Phone: 360-902-9090	Date: 02/26/2018
OFM Review: Ramona Nabors	Phone: (360) 902-0547	Date: 02/26/2018

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

ESSB 6034 AMH TED H4883.1 authorizes certain public utility districts to provide retail internet communications services, coupled with additional taxes collected.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

Projected cash flows are currently unavailable; therefore, estimated earnings from investments are indeterminable. Earnings for an account are a function of the average daily balance of the account and the earnings rate of the investment portfolio. Two accounts with the same overall level of receipts, disbursements, and transfers can have different average daily balances, and hence different earnings. Based on the February 2018 revenue forecast, assume approximately \$10,300 in FY 18, \$17,800 in FY 19, \$25,400 in FY 20 and \$30,800 in FY 21 in net earnings would be gained or lost annually for every \$1 million shift in average daily cash balances.

Debt Limit

There may be an impact on the debt service limitation calculation. Any change to the earnings credited to the general fund will change, by an equal amount, general state revenues.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

NONE

Part IV: Capital Budget Impact

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

Individual State Agency Fiscal Note

Bill Number: 6034 E S SB AMH TED H4883.1	Title: PUD retail telecom. service	Agency: 103-Department of Commerce
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Part I: Estimates

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No Fiscal Impact

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- ☐ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact: Serena Dolly	Phone: 360-786-7150	Date: 02/24/2018
Agency Preparation: Lea Ford	Phone: 360-725-2911	Date: 02/28/2018
Agency Approval: Martin McMurry	Phone: 360-725-2710	Date: 02/28/2018
OFM Review: Gwen Stamey	Phone: (360) 902-9810	Date: 03/01/2018

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

None.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

None.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

There is no impact to the department. The department does not execute or implement the activities stated in ESSB 6034.

Part III: Expenditure Detail

Part IV: Capital Budget Impact

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

Individual State Agency Fiscal Note

Bill Number: 6034 E S SB AMH TED H4883.1	Title: PUD retail telecom. service	Agency: 110-Office of Administrative Hearings
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Part I: Estimates

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No Fiscal Impact

Estimated Cash Receipts to:

Non-zero but indeterminate cost. Please see discussion.

Estimated Expenditures from:

Non-zero but indeterminate cost. Please see discussion.

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

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If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.

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If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).

☐

Capital budget impact, complete Part IV.

☐

Requires new rule making, complete Part V.

Legislative Contact: Serena Dolly	Phone: 360-786-7150	Date: 02/24/2018
Agency Preparation: Larry Dzieza	Phone: 360-407-2717	Date: 02/27/2018
Agency Approval: Larry Dzieza	Phone: 360-407-2717	Date: 02/27/2018
OFM Review: Bryan Way	Phone: (360) 902-0650	Date: 02/27/2018

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

Given the proposed legislation's narrow applicability, OAH assumes the potential for very few appeals to be brought to OAH for adjudication.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

Part III: Expenditure Detail

Part IV: Capital Budget Impact

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

Department of Revenue Fiscal Note

Bill Number: 6034 E S SB AMH TED H4883.1	Title: PUD retail telecom. service	Agency: 140-Department of Revenue
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Part I: Estimates

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No Fiscal Impact

Estimated Cash Receipts to:

Indeterminate Impact

Estimated Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

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☐

Capital budget impact, complete Part IV.

☐

Requires new rule making, complete Part V.

Legislative Contact: Serena Dolly	Phone: 360-786-7150	Date: 02/24/2018
Agency Preparation: Diana Tibbetts	Phone: 360-534-1520	Date: 03/01/2018
Agency Approval: Don Gutmann	Phone: 360-534-1510	Date: 03/01/2018
OFM Review: Kathy Cody	Phone: (360) 902-9822	Date: 03/01/2018

Request # 6034-1-1

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe, by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

An act relating to authorizing limited retail telecommunications services for public utility districts that provide only sewer, water, and telecommunications on the effective date of this act.

A public utility district (PUD) that provides only water, sewer and wholesale telecommunications services in a county less than 500 square miles and west of Puget Sound is authorized to provide retail Internet services on its broadband network within the district's boundaries, if the existing end user Internet service providers cease or provide inadequate service.

This bill changes how PUDs are taxed on providing Internet services. PUDs would pay a 2 percent privilege tax on the gross revenues derived from the sale of retail Internet services as well as an additional surtax equal to 7 percent multiplied by the 2 percent rate. The amount of privilege tax collected is then distributed to the county in which the broadband network is located. If the broadband network is located in more than one county, the balance must be distributed on a pro rata manner to each applicable county based on the cost of the broadband network.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

The county location and size requirements limit this bill to one county - Kitsap County.

Currently Kitsap County PUD is not providing internet services and it is unknown if and when they may do so; therefore, the revenue impact of this bill is indeterminate.

ADDITIONAL INFORMATION

Imposing a PUD privilege tax on the retail sale of Internet services likely violates the Internet Tax Freedom Act (ITFA), which may introduce litigation risk.

ITFA is a federal law that bars state and local governments from taxing Internet access, regardless of whether the tax is imposed on the consumer or the provider. The ITFA also bars multiple or discriminatory taxes on electronic commerce. Washington State's B&O tax was specifically excluded from the ITFA, so long as it remains applicable to a broad range of business activity and is not discriminatory in its application to providers of communication services, Internet access, or telecommunications.

The proposed PUD privilege tax likely violates ITFA because:

- It is imposed on the gross revenues from the sale of retail Internet services, thus taxing Internet access.
- Unlike the B&O tax, the PUD privilege tax is not excluded from the ITFA's restrictions.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

The Department of Revenue will not incur any costs with the implementation of this legislation.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

NONE

Part IV: Capital Budget Impact

None.

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

No rule making required.

Individual State Agency Fiscal Note

Bill Number: 6034 E S SB AMH TED H4883.1	Title: PUD retail telecom. service	Agency: 215-Utilities and Transportation Commission
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Part I: Estimates

☒

No Fiscal Impact

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

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- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact: Serena Dolly	Phone: 360-786-7150	Date: 02/24/2018
Agency Preparation: Melissa Hamilton	Phone: 360 664-1158	Date: 02/28/2018
Agency Approval: Jon Noski	Phone: 360-664-0000	Date: 02/28/2018
OFM Review: Kathy Cody	Phone: (360) 902-9822	Date: 02/28/2018

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

6034 ESSB AMH TED H-4883.1 has no direct impact on the policies, practices or workload of the Utilities and Transportation Commission (UTC).

Public utility districts (PUDs) are expressly authorized to provide electricity, water, and sewer service. The sections of statute authorizing districts to provide wholesale telecommunications services includes a limiting provision stating that "Nothing in this subsection shall be construed to authorize public utility districts to provide telecommunications services to end users." While the term "end user" is not defined in statute, there is a 2001, Attorney General Opinion that concluded that "end user" means "retail customer." PUDs that were in existence on June 8, 2000 are authorized to provide retail telecommunications services and facilities within the district or outside the district by contract with another PUD or any local government authorized to provide such services. The draft legislation adds a new section to RCW 54.16 that allows a PUD in a county with an area less than 500 square miles and provides only water, sewer and telecommunications as of the bill's effective date to provide retail telecommunication services to an area as defined by petition.

Petition must be for an area that has no or inadequate service providers and is signed by a majority of residents or businesses in any telecommunication local utility district; a majority of a group (including homeowner associations) of any geographical area that has developed a partnership payment structure to finance broadband deployment with the PUD; or any individual that has developed partnership payment structure to finance broadband deployment with the PUD.

Adequacy of service is defined as measuring retail service in the area and comparing it with standards in the PUD service level agreement used for other PUD network providers.

All rates must be fair and nondiscriminatory except the PUD may set tiers of service charges based on demands of the user including residential and commercial rates.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

No Cash Receipt Impact.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

6034 ESSB AMH TED H-4883.1 has no direct impact on the policies, practices or workload of the Utilities and Transportation Commission (UTC).

Part III: Expenditure Detail

Part IV: Capital Budget Impact

No Cash Receipt Impact.

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

No Rule Changes Required.