



STATE OF WASHINGTON
DEPARTMENT OF REVENUE
OFFICE OF THE DIRECTOR

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November 29, 2021

TO: The Honorable Christine Rolfes, Chair The Honorable Noel Frame, Chair
 The Honorable Lynda Wilson The Honorable Ed Orcutt
 Ways & Means Committee Finance Committee
 Washington State Senate Washington State House of Representatives

 The Honorable Reuven Carlyle, Chair The Honorable Cindy Ryu, Chair
 The Honorable Doug Erickson The Honorable Matt Boehnke
 Environment, Energy & Technology Community & Economic
 Committee Development Committee
 Washington State Senate Washington State House of Representatives

 Keith Phillips, Policy Director
 Office of the Governor

FROM: Vikki Smith, Director *Vikki Smith*
 Department of Revenue

**SUBJECT: REPORT ON PAYMENTS IN LIEU OF PROPERTY TAX ON CERTAIN
PUBLIC UTILITY DISTRICT BROADBAND INFRASTRUCTURE**

Background

During the 2018 Legislative Session, the Washington State Legislature passed [Engrossed Substitute Senate Bill \(ESSB\) 6034](#) (chapter 186, Laws of 2018). The legislation authorized certain public utility districts (PUDs) to provide limited retail internet service on the PUD's broadband network. Those PUDs authorized to provide retail internet service under this bill are those that, as of June 7, 2018, provide only water, sewer, and wholesale telecommunications services in a county with an area less than 500 square miles and located west of the Puget Sound. See Section 1 of ESSB 6034 (formerly codified at RCW 54.16.420). Only Kitsap Public Utility District #1 (Kitsap PUD) meets these criteria.

During the 2021 Legislative Session, the Washington State Legislature passed [Engrossed Substitute House Bill \(ESHB\) 1336](#) (Chapter 294, Laws of 2021). Among other things, ESHB 1336 repealed the geographic limitation on the provision of retail internet service by PUDs contained in Section 1 of ESSB 6034. ESHB 1336 also provided new or expanded authority for PUDs, port districts, second-class cities, towns, and counties to provide telecommunications services, including retail internet service.

As municipal corporations, PUDs are exempt from property tax under [RCW 84.36.010](#) and Article VII, Section 1 of the [Washington Constitution](#). Section 3 of ESSB 6034, as amended by Section 4 of ESHB 1336 and codified at [RCW 54.16.425](#), requires PUDs providing retail telecommunications services to make an annual payment in lieu of tax (PILT) for the PUD's broadband infrastructure used to provide retail telecommunications services. The amount of the PILT is negotiated between the PUD and the county or counties in which the broadband infrastructure is located. Additionally, the PILT amount may not exceed the amount of property tax that would be owed on the broadband infrastructure if it were subject to property taxation. If the parties cannot agree on the amount of the PILT, either party may submit the dispute to binding arbitration.

RCW 54.16.425 also requires the Department of Revenue (Department) to submit a report to the appropriate legislative committees annually by December 1 detailing the amount of PILT payments made under this statute and the amount of property tax that would be owed on the broadband infrastructure used in providing retail telecommunications services by PUDs if the property were subject to property taxation.

The Department's 2021 Report

Kitsap PUD has not exercised the authority granted by ESSB 6034 and ESHB 1336 to use its broadband infrastructure to provide retail telecommunications services. As a result, the district made no PILT payment to Kitsap County in 2021. Likewise, no other PUDs have exercised the authority granted by ESHB 1336 to use their broadband infrastructure to provide retail telecommunications services.

If you have any questions or need the report in an alternate format, please contact Steve Ewing, Legislative and External Affairs Liaison, Executive Division, at (360) 534-1545.

cc: Brad Hendrickson, Washington State Senate
Bernard Dean, Chief Clerk, Washington State House of Representatives
Members, Senate Ways & Means Committee
Members, House Finance Committee
Members, Senate Environment, Energy & Technology Committee
Members, House Community & Economic Development Committee
David Schumacher, Director, Office of Financial Management
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