

005625816

**HOUSE BILL NO. 1134**

Offered January 24, 2000

*A BILL to amend and reenact § 58.1-2901 of the Code of Virginia, relating to the electric utility consumption tax.*

\_\_\_\_\_  
Patron—Kilgore

\_\_\_\_\_  
Referred to Committee on Finance

**Be it enacted by the General Assembly of Virginia:****1. That § 58.1-2901 of the Code of Virginia is amended and reenacted as follows:**

§ 58.1-2901. (Effective January 1, 2001) Collection and remittance of tax.

A. The service provider shall collect the tax from the consumer by adding it as a separate charge to the consumer's monthly statement. Until the consumer pays the tax to such provider, the tax shall constitute a debt of the consumer to the Commonwealth. If any consumer refuses to pay the tax, the service provider shall notify the Commission and/or localities of the names and addresses of such consumers. After the consumer pays the tax to the service provider, the taxes collected shall be deemed to be held in trust by such provider until remitted to the Commission and/or localities.

*When determining the amount of tax to collect from consumers of an electric utility that is a cooperative which purchases, for the purpose of resale within the Commonwealth, electricity from a federal entity that made payments during such taxable period to the Commonwealth in lieu of taxes in accordance with a federal law requiring such payments to be calculated on the basis of such federal entity's gross proceeds from the sale of electricity, the service provider shall deduct from each of the respective tax amounts calculated in accordance with § 58.1-2900 an amount equal to the calculated tax amounts multiplied by the ratio that the total cost of the power, including facilities rental, supplied by said federal entity to said cooperative for resale within the Commonwealth bears to said cooperative's total operating revenue within the Commonwealth for the taxable period. The Department of Taxation may audit the records and books of said cooperative to verify that the tax imposed by this chapter has been correctly determined and properly remitted to the Commission.*

B. A service provider shall remit monthly to the Commission the amount of tax paid during the preceding month by the service provider's consumers, except for (i) amounts added on the bills to utilities owned and operated by municipalities which are collected by the entity providing transmission directly to such utilities (or an association or agency of which the municipality is a member), which they shall remit directly to the Commission and (ii) the portion which represents the local consumption tax, which portion shall be remitted to the locality in which the electricity was consumed and shall be based on such locality's license fee rate which it imposed. Amounts of the tax that are added on the bills to utilities owned and operated by municipalities, which are collected by the entity providing transmission directly to such utilities (or an association or agency of which the municipality is a member), shall be remitted monthly by such entity to the Commission, except that the portion which represents the local consumption tax shall be remitted to the locality in which the electricity was consumed and shall be based on such locality's license fee rate which it imposed.

C. The electric utility consumption tax shall be remitted monthly, on or before the last day of the succeeding month of collection. Those portions of the electric utility consumption tax that relate to the state consumption tax and the special regulatory tax shall be remitted to the Commission; the portion that relates to the local consumption tax shall be remitted to the localities. Failure to remit timely will result in a ten percent penalty.

D. Taxes on electricity sales in the year ending December 31, 2000, relating to the local consumption tax, shall be paid in accordance with § 58.1-3731. Monthly payments in accordance with subsection C shall commence on February 28, 2001.

E. For purposes of this section, "service provider" means the person who delivers electricity to the consumer.

F. The portion of the electric utility consumption tax relating to the local consumption tax replaces and precludes localities from imposing a license tax in accordance with § 58.1-3731 and the business, professional, occupation and license tax in accordance with Chapter 37 (§ 58.1-3700 et seq.) on electric suppliers subsequent to December 31, 2000, except as provided in subsection D. If the license fee rate imposed by a locality is less than the equivalent of the local consumption tax rate component of the consumption tax paid under subsection A of § 58.1-2900, the excess collected by the Commission shall constitute additional state consumption tax revenue and shall be remitted by the Commission to the state treasury.

INTRODUCED

HB1134

**60** G. The Department of Taxation may audit the books and records of any electric utility owned and  
**61** operated by a municipality (or an association or agency of which the municipality is a member) to  
**62** verify that the tax imposed by this chapter has been correctly determined and properly remitted to the  
**63** Commission.