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SENATE BILL NO. 258

Offered January 9, 2002

Prefiled January 8, 2002

A *BILL to amend and reenact § 58.1-2600 of the Code of Virginia, relating to taxation of public service corporations; cogenerators.*

Patron—Watkins

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:**1. That § 58.1-2600 of the Code of Virginia is amended and reenacted as follows:**

§ 58.1-2600. Definitions

A. As used in this chapter:

"Certificated motor vehicle carrier" means a common carrier by motor vehicle, as defined in § 46.2-2000, operating over regular routes under a certificate of public convenience and necessity issued by the Commission or issued on or after July 1, 1995, by the Department of Motor Vehicles. A transit company or bus company that is owned or operated directly or indirectly by a political subdivision of this Commonwealth shall not be deemed a "certificated motor vehicle carrier" for the purposes of this chapter and shall not be subject to the imposition of the tax imposed in § 58.1-2652, nor shall such transit company or bus company thereby be subject to the imposition of local property levies. A common carrier of property by motor vehicle shall not be deemed a "certificated motor vehicle carrier" for the purposes of this chapter and shall not be subject to the imposition of the tax imposed in § 58.1-2652, but shall be subject to the imposition of local property taxes.

"Cogenerator" means a qualifying cogenerator or qualifying small power producer within the meaning of regulations adopted by the Federal Energy Regulatory Commission in implementation of the Public Utility Regulatory Policies Act of 1978 (P.L. 95-617).

"Commission" means the State Corporation Commission which is hereby designated pursuant to Article X, Section 2 of the Constitution of Virginia as the central state agency responsible for the assessment of the real and personal property of all public service corporations, except those public service corporations for which the Department of Taxation is so designated, upon which the Commonwealth levies a license tax measured by the gross receipts of such corporations. The State Corporation Commission shall also assess the property of each telephone or telegraph company, every public service corporation in the Commonwealth in the business of furnishing heat, light and power by means of electricity, and each electric supplier, as provided by this chapter.

"Department" means the Department of Taxation which is hereby designated pursuant to Article X, Section 2 of the Constitution of Virginia as the central state agency to assess the real and personal property of railroads and pipeline transmission companies as defined herein.

"Electric supplier" means any person owning or operating facilities for the generation, transmission or distribution of electricity for sales, except any person owning or operating solar, wind or hydroelectric facilities with a designed generation capacity of less than twenty-five megawatts.

"Estimated tax" means the amount of tax which a taxpayer estimates as being imposed by Article 2 (§ 58.1-2620 et seq.) of this chapter for the tax year as measured by the gross receipts received in the taxable year.

"Freight car company" includes every car trust, mercantile or other company or person not domiciled in this Commonwealth owning stock cars, furniture cars, fruit cars, tank cars or other similar cars. Such term shall not include a company operating a line as a railroad.

"Gross receipts" means the total of all revenue derived in the Commonwealth, including but not limited to income from the provision or performance of a service or the performance of incidental operations not necessarily associated with the particular service performed, without deductions for expenses or other adjustments. Such term shall not, however, include interest, dividends, investment income or receipts from the sale of real property or other assets except inventory of goods held for sale or resale.

"Pipeline distribution company" means a corporation, other than a pipeline transmission company, which transmits, by means of a pipeline, natural gas, manufactured gas or crude petroleum and the products or by-products thereof to a purchaser for purposes of furnishing heat or light.

"Pipeline transmission company" means a corporation authorized to transmit natural gas, manufactured gas or crude petroleum and the products or by-products thereof in the public service by means of a pipeline or pipelines from one point to another when such gas or petroleum is not for sale to

INTRODUCED

SB258

59 an ultimate consumer for purposes of furnishing heat or light.

60 "Tax Commissioner" means the chief executive officer of the Department of Taxation or his
61 designee.

62 "Tax year" means the twelve-month period beginning on January 1 and ending on December 31 of
63 the same calendar year, such year also being the tax assessment year or the year in which the tax levied
64 under this chapter shall be paid.

65 "Taxable year" means the calendar year preceding the tax year, upon which the gross receipts are
66 computed as a basis for the payment of the tax levied pursuant to this chapter.

67 "Telegraph company" means a corporation or person operating the apparatus necessary to
68 communicate by telegraph.

69 "Telephone company" means a person holding a certificate of convenience and necessity granted by
70 the State Corporation Commission authorizing telephone service; or a person authorized by the Federal
71 Communications Commission to provide commercial mobile service as defined in § 332(d) (1) of the
72 Communications Act of 1934, as amended, where such service includes cellular mobile radio
73 communications services or broadband personal communications services; or a person holding a
74 certificate issued pursuant to § 214 of the Communications Act of 1934, as amended, authorizing
75 domestic telephone service and belonging to an affiliated group including a person holding a certificate
76 of convenience and necessity granted by the State Corporation Commission authorizing telephone
77 service. The term "affiliated group" has the meaning given in § 58.1-3700.1.

78 B. For purposes of this chapter the terms "license tax" and "franchise tax" shall be synonymous.

79 **2. That the provisions of this act that amend § 58.1-2600 of the Code of Virginia by adding a**
80 **definition of the term "cogeneration" shall be effective retroactive to December 31, 2001.**