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SENATE BILL NO. 259

Senate Amendments in [] — January 25, 2002

A BILL to amend and reenact §§ 58.1-2600 and 58.1-2628 of the Code of Virginia, relating to taxation of public service corporations; electric suppliers.

Patron prior to Engrossment—Senator Watkins

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:**1. That §§ 58.1-2600 and 58.1-2628 of the Code of Virginia are 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.

"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 or less.

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

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

"Tax year" means the twelve-month period beginning on January 1 and ending on December 31 of

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SB259E

59 the same calendar year, such year also being the tax assessment year or the year in which the tax levied
60 under this chapter shall be paid.

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

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

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

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

75 § 58.1-2628. Annual report.

76 A. Each telegraph company and telephone company shall report annually, on April 15, to the
77 Commission all real and tangible personal property of every description in the Commonwealth, owned,
78 operated or used by it, except leased automobiles, leased trucks or leased real estate, as of January 1
79 preceding, showing particularly the county, city, town or magisterial district wherein such property is
80 located.

81 The report shall also show the total gross receipts for the twelve months ending December 31 next
82 preceding and the interstate revenue, if any, attributable to the Commonwealth. Such revenue shall
83 include all interstate revenue from business originating and terminating within the Commonwealth and a
84 proportion of interstate revenue from all interstate business passing through, into or out of the
85 Commonwealth.

86 B. Every corporation doing in the Commonwealth the business of furnishing water, heat, light and
87 power, whether by means of gas or steam, except (i) pipeline transmission companies taxed pursuant to
88 § 58.1-2627.1 or (ii) an electric supplier as defined in § 58.1-400.2, shall report annually, on April 15, to
89 the Commission all real and tangible personal property of every description in the Commonwealth,
90 belonging to it as of January 1 preceding, showing particularly, as to property owned by it, the county,
91 city, town or magisterial district wherein such property is located. The report shall also show the total
92 gross receipts for the twelve months ending December 31 next preceding.

93 C. Every corporation in the Commonwealth in the business of furnishing heat, light and power by
94 means of electricity shall report annually, on April 15, to the Commission all real and tangible personal
95 property of every description in the Commonwealth, belonging to such corporation as of the preceding
96 January 1, showing particularly the county, city, town or magisterial district in which such property is
97 located.

98 D. Every electric supplier *as defined in § 58.1-2600* shall report annually, on April 15, to the
99 Commission all real and tangible personal property owned in the Commonwealth and used directly for
100 the generation, transmission or distribution of electricity for sale as of the preceding January 1, showing
101 particularly the county, city, town or magisterial district in which such property is located.

102 E. Every pipeline transmission company shall report annually, on April 15, to the Department all of
103 its real and tangible personal property of every description as of the beginning of January 1 preceding,
104 showing particularly in what city, town or county and magisterial district therein the property is located.

105 F. The report required by subsections A through E shall be completed on forms prepared and
106 furnished by the Commission. The Commission shall include on such forms such information as the
107 Commission deems necessary for the proper administration of this chapter.

108 G. The report required by this section shall be certified by the oath of the president or other
109 designated official of the corporation or person.

110 [2. Effective for tax years on or after January 1, 2002, real and tangible personal property used
111 in or by facilities for the generation, transmission or distribution of electricity for sales, with a
112 designed generation capacity of twenty-five megawatts or less, shall be assessed and taxed by the
113 respective local assessing officer.]

114 [3. That an emergency exists and this act is in force from its passage.]