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SENATE BILL NO. 656

Offered January 20, 2010

A *BILL to amend and reenact § 58.1-3661 of the Code of Virginia, relating to separate property tax classification for certified renewable energy manufacturing equipment, facilities, or devices.*

Patron—Ruff

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3661 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-3661. Certified solar energy equipment, facilities, or devices; certified recycling equipment, facilities, or devices; and certified renewable energy manufacturing equipment, facilities, or devices.

A. Certified solar energy equipment, facilities, or devices ~~and~~; certified recycling equipment, facilities, or devices; *and certified renewable energy manufacturing equipment, facilities, or devices*, as defined herein, are hereby declared to be a separate class of property and shall constitute a classification for local taxation separate from other classifications of real or personal property. The governing body of any county, city or town may, by ordinance, exempt or partially exempt such property from local taxation in the manner provided by subsection D.

B. As used in this section:

"Certified recycling equipment, facilities, or devices" means machinery and equipment which is certified by the Department of Waste Management as integral to the recycling process and for use primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the Commonwealth, and used in manufacturing facilities or plant units which manufacture, process, compound, or produce for sale recyclable items of tangible personal property at fixed locations in the Commonwealth.

"Certified solar energy equipment, facilities, or devices" means any property, including real or personal property, equipment, facilities, or devices, certified by the local certifying authority to be designed and used primarily for the purpose of providing for the collection and use of incident solar energy for water heating, space heating or cooling or other application which would otherwise require a conventional source of energy such as petroleum products, natural gas, or electricity.

"*Certified renewable energy manufacturing equipment, facilities, or devices*" means any property including real or personal property, equipment, facilities, or devices, certified by the local certifying authority to be designed and used primarily for the purpose of manufacturing a renewable energy product as defined in § 56-576.

"Local certifying authority" means the local building departments or the Department of Waste Management. The State Board of Housing and Community Development shall promulgate regulations setting forth criteria for certifiable solar energy equipment. The Department of Waste Management shall promulgate regulations establishing criteria for recycling equipment, facilities, or devices. *The Department of Mines, Minerals and Energy shall promulgate regulations setting forth criteria for certifiable renewable energy manufacturing equipment.*

C. Any person residing in a county, city or town which has adopted an ordinance pursuant to subsection A may proceed to have solar energy equipment, facilities, or devices, *and renewable energy manufacturing equipment, facilities, or devices* certified as exempt, wholly or partially, from taxation by applying to the local building department. If, after examination of such equipment, facility or device, the local building department determines that the unit primarily performs any of the functions set forth in subsection B and conforms to the requirements set by regulations of the Board of Housing and Community Development *in the case of solar energy equipment, facilities, or devices, and the Department of Mines, Minerals and Energy in the case of renewable energy manufacturing equipment, facilities, or devices*, such department shall approve and certify such application. The local department shall forthwith transmit to the local assessing officer those applications properly approved and certified by the local building department as meeting all requirements qualifying such equipment, facility or device for exemption from taxation. Any person aggrieved by a decision of the local building department may appeal such decision to the local board of building code appeals, which may affirm or reverse such decision.

D. Upon receipt of the certificate from the local building department or the Department of Waste Management the local assessing officer shall, if such local ordinance is in effect, proceed to determine the value of such qualifying solar energy equipment, facilities, or devices or certified recycling equipment, facilities, or devices *or certified renewable energy manufacturing equipment, facilities, or*

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59 *devices*. The exemption provided by this section shall be determined by applying the local tax rate to the
60 value of such equipment, facilities, or devices and subtracting such amount, wholly or partially, either (i)
61 from the total real property tax due on the real property to which such equipment, facilities, or devices
62 are attached or (ii) if such equipment, facilities, or devices are taxable as machinery and tools under
63 § 58.1-3507, from the total machinery and tools tax due on such equipment, facilities, or devices, at the
64 election of the taxpayer. This exemption shall be effective beginning in the next succeeding tax year,
65 and shall be permitted for a term of not less than five years. In the event the locality assesses real estate
66 pursuant to § 58.1-3292, the exemption shall be first effective when such real estate is first assessed, but
67 not prior to the date of such application for exemption.

68 E. It shall be presumed for purposes of the administration of ordinances pursuant to this section, and
69 for no other purposes, that the value of such qualifying solar energy equipment, facilities, and devices is
70 not less than the normal cost of purchasing and installing such equipment, facilities, and devices.
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