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SENATE BILL NO. 1286

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on January 22, 2013)

(Patron Prior to Substitute—Senator Deeds)

A BILL to amend and reenact § 58.1-3661 of the Code of Virginia, relating to taxation of solar energy equipment.

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 and certified recycling equipment, facilities or devices.

A. Certified solar energy equipment, facilities, or devices and certified recycling 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~~ *certified recycling equipment, facilities, or devices* from local taxation in the manner provided by subsection D. *Certified solar energy equipment, facilities, or devices shall be exempt from state and local taxation pursuant to Article X, Section 6 (d) of the Constitution of Virginia.*

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~~ *Environmental Quality* 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~~ *building department* 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.

"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.

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 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 the definition of "certified solar energy equipment, facilities, or devices" in subsection B and conforms to the requirements set by regulations of the Board of Housing and Community Development, 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. *Upon receipt of the certificate from the local building department, the local assessing officer shall proceed to determine the value of such qualifying solar energy equipment, facilities, or devices. The exemption provided by this section for solar energy equipment, facilities, or devices shall be determined by applying the local tax rate to the value of such solar energy equipment, facilities, or devices and subtracting such amount either (i) from the total real property tax due on the real property to which such equipment, facilities, or devices are attached or (ii) if such equipment, facilities, or devices are taxable as machinery and tools under § 58.1-3507, from the total machinery and tools tax due on such equipment, facilities, or devices, at the election of the taxpayer. This exemption shall be effective beginning in the next succeeding tax year and shall be permitted for a term of not less than five years. In the event the locality assesses real estate pursuant to § 58.1-3292, the exemption shall be first effective when such real estate is first assessed, but not prior to the date of such application for exemption.*

D. Any person residing in a locality that has adopted an ordinance pursuant to subsection A may proceed to have recycling equipment, facilities, or devices certified as exempt, wholly or partially, from

60 *taxation by applying to the Department of Environmental Quality.* Upon receipt of the certificate from
61 ~~the local building department or the Department of Waste Management~~ *Environmental Quality*, the local
62 assessing officer shall, if such local ordinance is in effect, proceed to determine the value of such
63 ~~qualifying solar energy equipment, facilities, or devices~~ *or certified recycling equipment, facilities, or*
64 *devices.* The exemption provided by this section shall be determined by applying the local tax rate to
65 the value of such equipment, facilities or devices and subtracting such amount, wholly or partially, either
66 (i) from the total real property tax due on the real property to which such equipment, facilities, or
67 devices are attached or (ii) if such equipment, facilities, or devices are taxable as machinery and tools
68 under § 58.1-3507, from the total machinery and tools tax due on such equipment, facilities, or devices,
69 at the election of the taxpayer. This exemption shall be effective beginning in the next succeeding tax
70 year, and shall be permitted for a term of not less than five years. In the event the locality assesses real
71 estate pursuant to § 58.1-3292, the exemption shall be first effective when such real estate is first
72 assessed, but not prior to the date of such application for exemption.

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

76 F. *The State Board of Housing and Community Development shall promulgate regulations setting*
77 *forth criteria for certified solar energy equipment, facilities, or devices. The Department of*
78 *Environmental Quality shall promulgate regulations establishing criteria for certified recycling*
79 *equipment, facilities, or devices.*