

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 An Act to amend and reenact § 58.1-3660 of the Code of Virginia and to amend the Code of Virginia by
3 adding in Article 2 of Chapter 26 of Title 58.1 a section numbered 58.1-2636, relating to solar
4 energy projects; revenue share assessment.

5 [H 1131]
6 Approved

7 Be it enacted by the General Assembly of Virginia:

8 1. That § 58.1-3660 of the Code of Virginia is amended and reenacted and that the Code of
9 Virginia is amended by adding in Article 2 of Chapter 26 of Title 58.1 a section numbered
10 58.1-2636 as follows:

11 § 58.1-2636. Revenue share for solar energy projects.

12 A. Any locality may by ordinance assess a revenue share of up to \$1,400 per megawatt, as measured
13 in alternating current (AC) generation capacity of the nameplate capacity of the facility based on
14 submissions by the facility owner to the interconnecting utility, on any solar photovoltaic (electric
15 energy) project.

16 B. For purposes of this section, "solar photovoltaic (electric energy) project" shall not include any
17 project that is (i) described in § 56-594, 56-594.01, or 56-594.2 or Chapters 358 and 382 of the Acts of
18 Assembly of 2013, as amended; (ii) 20 megawatts or less, as measured in alternating current (AC)
19 generation capacity, for which an initial interconnection request form has been filed with an electric
20 utility or a regional transmission organization on or before December 31, 2018; or (iii) five megawatts
21 or less.

22 § 58.1-3660. Certified pollution control equipment and facilities.

23 A. Certified pollution control equipment and facilities, as defined herein, are hereby declared to be a
24 separate class of property and shall constitute a classification for local taxation separate from other such
25 classification of real or personal property and such property. Certified pollution control equipment and
26 facilities shall be exempt from state and local taxation pursuant to Article X, Section 6 (d) of the
27 Constitution of Virginia.

28 B. As used in this section:

29 "Certified pollution control equipment and facilities" shall mean any property, including real or
30 personal property, equipment, facilities, or devices, used primarily for the purpose of abating or
31 preventing pollution of the atmosphere or waters of the Commonwealth and which the state certifying
32 authority having jurisdiction with respect to such property has certified to the Department of Taxation as
33 having been constructed, reconstructed, erected, or acquired in conformity with the state program or
34 requirements for abatement or control of water or atmospheric pollution or contamination. Such property
35 shall include, but is not limited to, any equipment used to grind, chip, or mulch trees, tree stumps,
36 underbrush, and other vegetative cover for reuse as mulch, compost, landfill gas, synthetic or natural gas
37 recovered from waste or other fuel, and equipment used in collecting, processing, and distributing, or
38 generating electricity from, landfill gas or synthetic or natural gas recovered from waste, whether or not
39 such property has been certified to the Department of Taxation by a state certifying authority. Such
40 property shall also include solar energy equipment, facilities, or devices owned or operated by a business
41 that collect, generate, transfer, or store thermal or electric energy whether or not such property has been
42 certified to the Department of Taxation by a state certifying authority.

43 C. For solar photovoltaic (electric energy) systems, this exemption applies only to (i) projects
44 equaling 20 megawatts or less, as measured in alternating current (AC) generation capacity, for which an
45 initial interconnection request form has been filed with an electric utility or a regional transmission
46 organization on or before December 31, 2018; (ii) projects equaling 20 megawatts or less, as measured
47 in alternating current (AC) generation capacity, that serve any of the public institutions of higher
48 education listed in § 23.1-100 or any private college as defined in § 23.1-105; (iii) 80 percent of the
49 assessed value of projects for which an initial interconnection request form has been filed with an
50 electric utility or a regional transmission organization (a) between January 1, 2015, and June 30, 2018,
51 for projects greater than 20 megawatts or (b) on or after July 1, 2018, for projects greater than 20
52 megawatts and less than 150 megawatts, as measured in alternating current (AC) generation capacity,
53 and that are first in service on or after January 1, 2017; (iv) projects equaling five megawatts or less, as
54 measured in alternating current (AC) generation capacity, for which an initial interconnection request
55 form has been filed with an electric utility or a regional transmission organization on or after January 1,
56 2019; and (v) 80 percent of the assessed value of all other projects equaling more than five megawatts

57 and less than 150 megawatts, as measured in alternating current (AC) generation capacity for which an
58 initial interconnection request form has been filed with an electric utility or a regional transmission
59 organization on or after January 1, 2019.

60 ~~The D. The exemption for solar photovoltaic (electric energy) projects greater than five megawatts,~~
61 ~~as measured in alternating current (AC) generation capacity, shall not apply to any such project unless~~
62 ~~an application has been filed with the locality for the project before July 1, 2030, regardless of whether~~
63 ~~a locality assesses a revenue share on such project pursuant to the provisions of § 58.1-2636. If a~~
64 ~~locality adopts an energy revenue share ordinance under § 58.1-2636, the exemption for solar~~
65 ~~photovoltaic (electric energy) projects greater than 20 five megawatts, as measured in alternating current~~
66 ~~(AC) generation capacity, shall not apply to projects upon which construction begins after January 1,~~
67 ~~2024 be 100 percent of the assessed value. If a locality does not adopt an energy revenue share~~
68 ~~ordinance under § 58.1-2636, the exemption for solar photovoltaic (electric energy) projects greater~~
69 ~~than five megawatts, as measured in alternating current (AC) generation capacity, for which an initial~~
70 ~~interconnection request form has been filed with an electric utility or a regional transmission~~
71 ~~organization, shall be 80 percent of the assessed value when an application has been filed with the~~
72 ~~locality prior to July 1, 2030. For purposes of this subsection, "application has been filed with the~~
73 ~~locality" means an applicant has filed an application for a zoning confirmation from the locality for a~~
74 ~~by-right use, or an application for land use approval under the locality's zoning ordinance to include an~~
75 ~~application for a conditional use permit, special use permit, special exception, or other application as~~
76 ~~set out in the locality's zoning ordinance.~~

77 E. For pollution control equipment and facilities certified by the Virginia Department of Health, this
78 exemption applies only to onsite sewage systems that serve 10 or more households, use
79 nitrogen-reducing processes and technology, and are constructed, wholly or partially, with public funds.
80 All such property as described in this definition shall not include the land on which such equipment or
81 facilities are located.

82 "State certifying authority" shall mean the State Water Control Board or the Virginia Department of
83 Health, for water pollution; the State Air Pollution Control Board, for air pollution; the Department of
84 Mines, Minerals and Energy, for solar energy projects and for coal, oil, and gas production, including
85 gas, natural gas, and coalbed methane gas; and the Virginia Waste Management Board, for waste
86 disposal facilities, natural gas recovered from waste facilities, and landfill gas production facilities, and
87 shall include any interstate agency authorized to act in place of a certifying authority of the
88 Commonwealth.

89 **2. That no revenue share established pursuant to this act shall retroactively apply to any solar**
90 **photovoltaic (electric energy) project for which an application was filed with the locality on or**
91 **before July 1, 2020, unless (i) the locality and the applicant or owner agree to revise any existing**
92 **voluntary payment agreement, or enter into any new voluntary payment agreement, under which**
93 **the applicant or owner agree to voluntarily waive a portion of the exemption from machinery and**
94 **tools tax as provided in § 58.1-3660 of the Code of Virginia, as amended by this act, and (ii) the**
95 **locality and the applicant or owner agree to substitute the amount of such voluntary payment for**
96 **a similar amount of a solar energy revenue share authorized by § 58.1-2636 of the Code of**
97 **Virginia, as created by this act. However, nothing in this act shall preclude an applicant or owner**
98 **of a solar photovoltaic (electric energy) project previously approved by a locality from entering**
99 **into a written agreement to submit such project to a local ordinance that requires a solar energy**
100 **revenue share to be paid as authorized by § 58.1-2636 of the Code of Virginia, as created by this**
101 **act.**