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SENATE BILL NO. 763

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Joint Conference Committee
on March 7, 2020)

(Patron Prior to Substitute—Senator Barker)

A *BILL to amend and reenact § 58.1-3660 of the Code of Virginia, relating to local tax exemption; solar energy equipment.*

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3660 of the Code of Virginia is amended and reenacted as follows:

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

A. Certified pollution control equipment and facilities, as defined herein, are hereby declared to be a separate class of property and shall constitute a classification for local taxation separate from other such classification of real or personal property and such property. Certified pollution control equipment and facilities 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 pollution control equipment and facilities" ~~shall mean~~ *means* any property, including real or personal property, equipment, facilities, or devices, used primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the Commonwealth and which the state certifying authority having jurisdiction with respect to such property has certified to the Department of Taxation as having been constructed, reconstructed, erected, or acquired in conformity with the state program or requirements for abatement or control of water or atmospheric pollution or contamination. Such property shall include, but is not limited to, any equipment used to grind, chip, or mulch trees, tree stumps, underbrush, and other vegetative cover for reuse as mulch, compost, landfill gas, synthetic or natural gas recovered from waste or other fuel, and equipment used in collecting, processing, and distributing, or generating electricity from, landfill gas or synthetic or natural gas recovered from waste, whether or not such property has been certified to the Department of Taxation by a state certifying authority. Such property shall also include solar energy equipment, facilities, or devices owned or operated by a business that collect, generate, transfer, or store thermal or electric energy whether or not such property has been certified to the Department of Taxation by a state certifying authority.

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

D. The exemption for solar photovoltaic (electric energy) projects greater than ~~20~~ *five* megawatts, as measured in alternating current (AC) generation capacity, shall not apply to ~~any such project projects~~ *upon which construction begins after January 1, 2024 unless an application has been filed with the locality for the project before July 1, 2030. For purposes of this section, "application has been filed with the locality" means an applicant has filed an application for a zoning confirmation from the locality for a by-right use or an application for land use approval under the locality's zoning ordinance to include an application for a conditional use permit, special use permit, special exception, or other application as set out in the locality's zoning ordinance.*

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

60 facilities are located.

61 "State certifying authority" ~~shall mean~~ *means* the State Water Control Board or the Virginia
62 Department of Health, for water pollution; the State Air Pollution Control Board, for air pollution; the
63 Department of Mines, Minerals and Energy, for solar energy projects and for coal, oil, and gas
64 production, including gas, natural gas, and coalbed methane gas; and the Virginia Waste Management
65 Board, for waste disposal facilities, natural gas recovered from waste facilities, and landfill gas
66 production facilities, and shall include any interstate agency authorized to act in place of a certifying
67 authority of the Commonwealth.

68 *F. Notwithstanding any provision to the contrary, for any solar photovoltaic project described in*
69 *clauses (iii) and (v) of subsection C for which an initial interconnection request form has been filed*
70 *with an electric utility or a regional transmission organization on or after January 1, 2019, the amount*
71 *of the exemption shall be as follows: 80 percent of the assessed value in the first five years in service*
72 *after commencement of commercial operation, 70 percent of the assessed value in the second five years*
73 *in service, and 60 percent of the assessed value for all remaining years in service.*

74 **2. The provisions of subsection F of § 58.1-3660 of the Code of Virginia, as amended by this act,**
75 **shall not apply to any solar photovoltaic project on which a locality assesses a revenue share, if**
76 **such revenue share is authorized by the General Assembly and imposed by a locality by**
77 **ordinance.**