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SENATE BILL NO. 1201

Offered January 13, 2021

Prefiled January 11, 2021

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; storage.

Patron—Petersen

Referred to Committee on Finance and Appropriations

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.

"Cogenerator" means a qualifying cogenerator or qualifying small power producer within the meaning of regulations adopted by the Federal Energy Regulatory Commission in implementation of the Public Utility Regulatory Policies Act of 1978 (P.L. 95-617).

"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, *storage*, transmission, or distribution of electricity for sales, except any person owning or operating facilities with a designed generation *or storage* capacity of ~~twenty-five~~ 25 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

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

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

62 "Tax year" means the twelve-month period beginning on January 1 and ending on December 31 of
63 the same calendar year, such year also being the tax assessment year or the year in which the tax levied
64 under this chapter shall be paid.

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

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

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

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

79 **§ 58.1-2628. Annual report.**

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

85 The report shall also show the total gross receipts for the 12 months ending December 31 next
86 preceding and the interstate revenue, if any, attributable to the Commonwealth. Such revenue shall
87 include all interstate revenue from business originating and terminating within the Commonwealth and a
88 proportion of interstate revenue from all interstate business passing through, into, or out of the
89 Commonwealth.

90 B. Every corporation doing in the Commonwealth the business of furnishing water, heat, light, and
91 power, whether by means of gas or steam, except (i) pipeline transmission companies taxed pursuant to
92 § 58.1-2627.1 or (ii) an electric supplier as defined in § 58.1-400.2, shall report annually, on April 15, to
93 the Commission all real and tangible personal property of every description in the Commonwealth,
94 belonging to it as of January 1 preceding, showing particularly, as to property owned by it, the county,
95 city, town, or magisterial district wherein such property is located. The report shall also show the total
96 gross receipts for the 12 months ending December 31 next preceding.

97 C. Every corporation in the Commonwealth in the business of furnishing heat, light, and power by
98 means of electricity shall report annually, on April 15, to the Commission all real and tangible personal
99 property of every description in the Commonwealth, belonging to such corporation, leased by such
100 corporation for a term greater than one year, or operated by such corporation as of the preceding
101 January 1, showing particularly the county, city, town, or magisterial district in which such property is
102 located, unless reported to the Commission by another corporation or electric supplier in the
103 Commonwealth in the business of furnishing heat, light, and power by means of electricity. Real and
104 tangible personal property of every description in the Commonwealth leased by such corporation for a
105 term greater than one year or operated by such corporation shall mean only those assets directly
106 associated with production facilities and shall not mean real estate or vehicles. The report shall also
107 show the total gross receipts less sales to federal, state, and local governments for their own use.
108 Electric suppliers organized as cooperatives shall report annually their gross receipts received from
109 nonmembers.

110 D. Every electric supplier as defined in § 58.1-2600 shall report annually, on April 15, to the
111 Commission all real and tangible personal property owned by such electric supplier, leased by such
112 electric supplier for a term greater than one year, or operated by such electric supplier in the
113 Commonwealth and used directly for the generation, *storage*, transmission, or distribution of electricity
114 for sale as of the preceding January 1, showing particularly the county, city, town, or magisterial district
115 in which such property is located, unless reported to the Commission by another corporation or electric
116 supplier in the Commonwealth in the business of furnishing heat, light, and power by means of
117 electricity. Real and tangible personal property of every description in the Commonwealth leased by
118 such electric supplier for a term greater than one year or operated by such electric supplier shall mean
119 only those assets directly associated with production facilities and shall not mean real estate or vehicles.
120 The report shall also show the total gross receipts less sales to federal, state, and local governments for

121 their own use. Electric suppliers organized as cooperatives shall report annually their gross receipts
122 received from nonmembers.

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

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

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

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