

State Corporation Commission 2021 Fiscal Impact Statement

1. Bill Number: SB1201

House of Origin

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Second House

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Enrolled

2. Patron: Petersen

3. Committee: Passed Both Houses

4. Title: Energy storage systems; definitions, tax exemption, revenue share for systems.

5. Summary: Amends the definition of an electric supplier to include energy storage systems with a storage capacity greater than 25 megawatts and requires energy storage systems qualifying as electric suppliers to file an annual report with the Commission. Declares that energy storage systems are a separate class of property and are exempt from state and local taxation. The bill defines "energy storage system" as equipment, facilities, or devices that are capable of absorbing energy, storing it for a period of time, and redelivering that energy after it has been stored. The tax exemption applies only to certain projects with alternating current (AC) storage capacity of more than five megawatts and less than 150 megawatts. The bill also provides that a locality may assess a revenue share of up to \$1,400 per megawatt of alternating current (AC) storage capacity on energy storage systems and enables a locality to increase the revenue share by 10% on solar and energy storage systems beginning on July 1, 2026, and every 5 years thereafter for projects approved by the locality on or after January 1, 2021.

If a locality elects not to assess a revenue share on energy storage systems greater than 5 megawatts and less than 150 megawatts, then the following exemptions apply: 80 percent of the assessed value in the first five years of service, 70 percent of the assessed value in the second five years, and 60 percent of the assessed value in the remaining years in service. The exemption for projects greater than 5 megawatts would be 100 percent of the assessed value if the locality imposes a revenue share. The exemption would not apply unless an application has been filed with the locality for the project before July 1, 2030.

6. Budget Amendment Necessary: No

7. Fiscal Impact Estimates: No fiscal impact on the State Corporation Commission. Implementation of this bill will not require additional staff or funding.

8. Fiscal Implications: Administrative cost should be minimal if any on the localities and no additional funding is needed by the State Corporation Commission.

The revenue impact on localities is unknown because central assessment by the State Corporation Commission verses local assessment carries different methodologies and tax rates on a locality by locality basis.

- 9. Specific Agency or Political Subdivisions Affected:** State Corporation Commission; Department of Taxation; and Cities, and Counties

- 10. Technical Amendment Necessary:** No

- 11. Other Comments:** Senate Bill 1201 was originally introduced in the Senate at the request of the State Corporation Commission. The substitute that Senator Petersen offered in Senate Finance and Appropriations merges the provisions of House Bill 2006 into Senate Bill 1201.

The Department of Taxation's comments on this bill are attached.

DEPARTMENT OF TAXATION 2021 Fiscal Impact Statement

1. **Patron** J. Chapman Petersen

3. **Committee** Senate Finance and Appropriations

4. **Title** Tax exemptions for energy storage systems

Email to SCC:
Legislation.Responses@scc.virginia.gov

2. **Bill Number** SB 1201

House of Origin:

 Introduced

 X **Substitute**

 Engrossed

Second House:

 X **In Committee**

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would authorize localities to adopt revenue share ordinances on energy storage systems of up to \$1,400 per megawatt, with the maximum revenue share on storage systems as well as solar photovoltaic projects increasing by ten percent on July 1, 2026 and every five years thereafter for projects approved by the locality on or after January 1, 2021.

The bill would also provide that the certified pollution control equipment and facilities exemption for projects greater than five megawatts but less than 150 megawatts, and for projects greater than five megawatts where the locality has not adopted a revenue share ordinance, would be 80 percent of the assessed value in the first five years of service, 70 percent in years six through ten, and 60 percent thereafter. The exemption for projects greater than 5 megawatts would be 100 percent if the locality has imposed a revenue share. No exemption would be available to projects greater than five megawatts that have not filed an application with the locality before July 1, 2030.

Under current law, localities are authorized to impose revenue share agreements on solar photovoltaic projects but not on energy storage systems. Localities do not currently have the authority to increase the revenue share beyond \$1,400 per megawatt.

If enacted during the Regular Session of the 2021 General Assembly, this bill would become effective July 1, 2021.

6. **Budget amendment necessary:** No.

7. **Fiscal Impact Estimates are:** Preliminary (See Line 8.)

8. **Fiscal implications:**

Administrative Costs

This bill may have a negative impact on administrative costs in localities in which energy storage systems are located. The Department of Taxation (“the Department”) considers implementation of this bill to be routine and does not require additional funding.

Revenue Impact

This bill could have an unknown impact on the revenues of affected localities. While localities may experience a decrease in sales and local property tax revenues as a result of the exemption proposed by this bill, these localities may also recoup some or all of that decrease from the imposition of revenue shares authorized by this bill.

This bill would have no impact on state revenues.

9. Specific agency or political subdivisions affected:

Department of Taxation
Localities in which eligible energy storage systems are located

10. Technical amendment necessary: No.

11. Other comments:

Local Property Tax Exemptions for Solar Equipment

Article X, § 6 of the *Constitution of Virginia* lists all property that may be exempted from taxation by general law. Article X, § 6 (d) provides that the General Assembly may define as a separate subject of taxation any property used primarily for the purpose of abating or preventing air or water pollution or for the purpose of transferring or storing solar energy and by general law may allow the governing body of any locality to exempt such property from taxation, or by general law may directly exempt such property from taxation.

Commercial Solar Equipment and Local Revenue Shares

Localities may, by ordinance, assess a revenue share of up to \$1,400 per megawatt of generation capacity on a solar photovoltaic project and require the owner of the project to provide the locality with data reflecting the annual megawatt hours generated by the project by March 30 of each calendar year. Localities are prohibited from assessing revenue shares upon certain customer-generators, small agricultural generators, solar projects that are 5 megawatts or less, or projects that are 20 megawatts or less for which an interconnection request form has been filed on or before December 31, 2018.

If a locality adopts a revenue share ordinance, the certified pollution control exemption for that solar project is 100 percent. For solar projects greater than 5 megawatts that are not eligible for the 100 percent exemption, an 80 percent exemption is available so long as application is made before July 1, 2030. No revenue share is permitted to be established for projects for which an application was filed prior to July 1, 2020 unless the owner and locality agree to waive a portion of the pollution control exemption that applies to the project and return the exemption to the locality or the owner and locality agree to enter into a new payment agreement.

Proposal

This bill would authorize localities to adopt revenue share ordinances on energy storage systems of up to \$1,400 per megawatt, with the maximum revenue share on storage systems as well as solar photovoltaic projects increasing by ten percent on July 1, 2026 and every five years thereafter for projects approved by the locality on or after January 1, 2021.

The bill would also provide that the certified pollution control equipment and facilities exemption for projects greater than five megawatts but less than 150 megawatts, and for projects greater than five megawatts where the locality has not adopted a revenue share ordinance, would be 80 percent of the assessed value in the first five years of service, 70 percent in years six through ten, and 60 percent thereafter. The exemption for projects greater than 5 megawatts would be 100 percent if the locality has imposed a revenue share. No exemption would be available to projects greater than five megawatts that have not filed an application with the locality before July 1, 2030.

Energy storage systems would be defined as equipment, facilities, or devices that are capable of absorbing energy, storing it for a period of time, and redelivering that energy after it has been stored. Energy storage systems would not include the land on which such equipment, facilities, or device are located.

This bill would classify energy storage systems as certified pollution control equipment and facilities regardless of whether or not such equipment has been certified to the Department by a state certifying authority. While this bill would exempt energy storage systems from local taxation, the bill would not alter the current requirement that certified pollution control equipment and facilities be certified to the Department of Taxation by the Department of Mines, Minerals, and Energy in order to be exempt from sales tax.

If enacted during the Regular Session of the 2021 General Assembly, this bill would become effective July 1, 2021.

Similar Legislation

House Bill 2269 would provide that localities may assess a revenue share on energy storage systems of up to \$1,400 per megawatt. The bill would also increase the maximum revenue share amount that may be imposed on solar photovoltaic energy projects and energy storage

systems for which an application has been approved by the locality on or after January 1, 2021 by ten percent on July 1, 2026 and every five years thereafter.

House Bill 2006 is identical to this bill.

Senate Bill 1380 would include electric school buses and associated charging and other infrastructure, solar photovoltaic or otherwise, related or incidental to an electric school bus project within the exemption for certified pollution control equipment and facilities. These buses and associated infrastructure would therefore be deemed a separate class of property and exempt from state and local taxation.

cc : Secretary of Finance

Date: 2/23/2021 VB
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