

DEPARTMENT OF TAXATION

2012 Fiscal Impact Statement

1. **Patron** G. Manoli Loupassi

3. **Committee** House Finance

4. **Title** Local Consumer Utility Tax; Exemption for
Certain Electricity Generation Facilities

2. **Bill Number** HB 103

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would provide an exemption from the local consumer utility tax for natural gas service provided to an electric utility for the purpose of operating a natural gas fueled electricity generation facility that is owned and operated by the electric utility. "Electric utility" would be defined as any investor-owned public utility or cooperative that provides electric energy for use by retail customers. The provisions of the bill would not apply in any case or proceeding pending before any agency of the Commonwealth on the effective date of the bill.

The effective date of this bill is not specified.

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

7. **Fiscal Impact Estimates are:** Not available. (See Line 8.)

8. **Fiscal implications:**

This bill would have no impact on state revenues. According to the Virginia Department of Environmental Quality there were 77 electric generating plants operating in Virginia as of September 2, 2010. Of these plants, 32 use natural gas exclusively for power generation and four use natural gas in conjunction with other forms of power generation. According to Tax Rates 2010, Virginia's Cities, Counties, and Selected Towns, by Weldon Cooper Center for Public Policy, of the 22 localities with electricity generating natural gas plants, 11 impose a consumer utility tax on industrial natural gas sales. The 11 localities are the Cities of Chesapeake, Richmond, Suffolk and Virginia Beach and the Counties of Accomack, Caroline, Fauquier, Hanover, Northampton, Prince William and Washington. To the extent that natural gas service for the purpose of operating a natural gas fueled electricity generation facility would qualify for the exemption, this bill would result in a decrease in revenue for these localities, the magnitude of which is unknown, but potentially significant.

9. Specific agency or political subdivisions affected:

All localities

10. Technical amendment necessary: No.

11. Other comments:

Generally

Under current law, a consumer utility tax may be imposed by any county, city, or town on consumers of utility services provided by water or heat, light and power companies or other public service corporations. Consumers of these utility services may not be taxed at a rate in excess of 20 percent of the monthly charge, and the tax is not applicable to any amount charged in excess of \$15 per month for residential customers. Thus, the consumer utility tax on residential customers is effectively capped at \$3 a month. There is no ceiling on the local consumer utility tax for commercial and industrial customers. Any locality that had a higher a rate of taxation in effect before July 1, 1972 is allowed to continue imposing the local consumer utility tax at that rate. Currently, utility sales of products used as motor vehicle fuels are exempt from the consumer utility tax.

The Department recently issued a ruling on this issue, Public Document 11-51 (04/05/2011), in the appeal of a local consumer utility tax assessment. The Department held that sales of natural gas to an electric utility are taxable as the electric utility is a consumer of natural gas provided by a pipeline distribution company as defined by the *Va. Code*.

Proposal

This bill would provide an exemption from the local consumer utility tax for natural gas service provided to an electric utility for the purpose of operating a natural gas fueled electricity generation facility that is owned and operated by the electric utility. "Electric utility" would be defined as any investor-owned public utility or cooperative that provides electric energy for use by retail customers. The provisions of the bill would not apply in any case or proceeding pending before any agency of the Commonwealth on the effective date of the bill.

The effective date of this bill is not specified.

cc : Secretary of Finance

Date: 1/13/2012 AM
DLAS File Name: HB103F161