

DEPARTMENT OF TAXATION

2018 Fiscal Impact Statement

1. **Patron** Elizabeth R. Guzman

3. **Committee** House Finance

4. **Title** Individual Income Tax Credit and Property
Tax Exemption for Substantial-Capacity
Solar Equipment

2. **Bill Number** HB 256

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would provide an individual income tax credit for the cost of substantial-capacity solar equipment for which the taxpayer obtains certification for purposes of the property tax exemption for such equipment. The amount of the credit would be limited to the lesser of \$10,000, 10 percent of the total installed cost of the equipment, or the taxpayer's tax liability for the taxable year. The credit would be subject to an annual credit cap of \$500,000 and would only apply to equipment installed on or after January 1, 2018, but before January 1, 2023.

This bill would also provide a mandatory local property tax exemption for such equipment.

The effective date of this bill is not specified.

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

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

8. **Fiscal implications:**

Administrative Costs

The Department of Taxation ("the Department") has not assigned any administrative costs to this bill because the changes required by a single bill such as this can be implemented as part of the annual changes to our systems and forms. As stand-alone legislation, the Department considers implementation of this bill as "routine," and does not require additional funding.

The Department will provide specific administrative costs on any legislation that is not "routine." Additionally, the Department will review all state tax legislation likely to be enacted prior to the passage by each house. If the aggregate number of routine bills likely to pass either house is unusually large, it is possible that additional resources will be required. If so, the Department will identify the costs at that time.

The administrative costs to local governments of certifying substantial-capacity solar equipment is unknown.

Revenue Impact

The individual income tax credit would have an unknown negative General Fund revenue impact beginning in Fiscal Year 2019. In 2016, 3,702 residencies had solar photovoltaic systems. Of these, 804 were newly installed during 2016. However, the extent to which substantial solar equipment installed after January 1, 2018 would be exempted from local property tax and, thereby, qualify for the credit is unknown. The negative revenue impact would not exceed the \$500,000 annual credit cap.

The mandatory local property tax exemption would have an unknown negative impact on local revenues beginning in Fiscal Year 2019.

9. Specific agency or political subdivisions affected:

Department of Taxation
Local Building Departments
Local Commissioners of the Revenue or Real Estate Assessors

10. Technical amendment necessary: No.

11. Other comments:

Federal Business Energy Investment Tax Credit

Under federal law, businesses may claim a tax credit equal to 30 percent of the costs of qualified fuel cell property; equipment which uses solar energy to generate electricity, heat or cool a structure, or provide solar process heat; equipment which uses solar energy to illuminate the inside of a structure using fiber-optic distributed sunlight; and qualified small wind energy property.

Businesses may claim a credit equal to 10 percent of the costs of any other energy property. Other types of energy property include equipment used to produce, distribute, or use energy derived from a geothermal deposit; qualified microturbine property; combined heat and power system property; and equipment which uses the ground or ground water as a thermal energy source to heat a structure or as a thermal energy sink to cool a structure.

To qualify for the credit, the original use of the property must begin with the taxpayer, or the property must be constructed by the taxpayer. Additionally, the property must be depreciable or amortizable and the property must meet the performance and quality standards set forth in the Treasury Regulations.

No credit is allowed with respect to property for the taxable year in which a grant is made under § 1603 of the American Recovery and Reinvestment Tax Act of 2009 or any subsequent taxable year. A recapture provision applies if a credit is determined for any taxable year before which a grant is made.

The credit was scheduled to be reduced to 10 percent after December 31, 2016. However, on December 18, 2015, the President signed into law the Consolidated Appropriations Act of 2016 (H.R. 2029). Pursuant to that legislation, the tax credit will remain at 30 percent for qualifying solar projects for which construction begins prior to January 1, 2020 and which are placed in service before January 1, 2024. The credit will be reduced to:

- 26 percent for projects for which construction begins in 2020 and which are placed in service before January 1, 2024;
- 22 percent for projects for which construction begins in 2021 and which are placed in service before January 1, 2024; and
- 10 percent for projects for which construction begins after December 31, 2021 or which are placed in service after January 1, 2024.

Virginia Solar Energy Incentives

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. Additionally, Article X, § 6 provides that exemptions of property from taxation shall be strictly construed.

Exemptions for Commercial Solar Equipment

Legislation in the 2014 General Assembly Session provided a mandatory local property tax exemption for solar photovoltaic systems equaling 20 megawatts or less owned or operated by a business.

Legislation in the 2016 General Assembly Session made several changes to the exemption effective January 1, 2017:

- The full exemption was limited to 1) projects equaling 20 megawatts or less for which an initial interconnection request form is filed on or before December 31, 2018; 2) projects equaling 20 megawatts or less that serve a public institute of higher education or a private college in the Commonwealth; and 3) projects equaling 5 megawatts or less for which an initial interconnection request form is filed on or after January 1, 2019.
- The exemption was expanded to provide an exemption for 80 percent of the assessed value for 1) projects greater than 20 megawatts first in service on or after

January 1, 2017, for which an initial interconnection request form was filed after January 1, 2015; and 2) projects greater than 5 megawatts for which an initial interconnection request form is filed on or after January 1, 2019.

- A sunset date was provided for the exemption for projects greater than 20 megawatts so that it does not apply to projects on which construction begins after January 1, 2024.

Exemptions for Residential Solar Equipment

All localities are authorized to grant a local option property tax exemption for solar energy equipment certified by the local building department to be designed and used primarily for the purpose of collecting, generating, transferring, or storing thermal or electric energy.

Retail Sales and Use Tax

Under current law, a sales tax exemption for residential solar energy equipment is not available. Legislation in the 2016 General Assembly Session provided a sales tax exemption for machinery and tools used by a public service corporation to generate energy derived from sunlight. The legislation also provided a sales tax exemption for solar energy property certified to the Department of Taxation as pollution control property by the Department of Mines, Minerals, and Energy.

Virginia Energy Income Tax Credit

Virginia previously allowed an energy income tax credit, which was effective for taxable years beginning on and after January 1, 1983 through December 31, 1987. The credit was available to individuals and corporations for their renewable energy source expenditures, as defined under federal law. The amount of the credit varied through the years. For the three most recent years, a credit was allowed in the amount of:

- Twenty percent of renewable energy source expenditures made during 1985;
- Fifteen percent of renewable energy source expenditures made during 1986; and
- Ten percent of renewable energy source expenditures made during 1987.

Proposed Legislation

This bill would provide an individual income tax credit for the cost of substantial-capacity solar equipment for which the taxpayer obtains certification for purposes of the property tax exemption for such equipment. The amount of the credit would be limited to the lesser of \$10,000, 10 percent of the total installed cost of the equipment, or the taxpayer's tax liability for the taxable year. The credit would only apply to equipment installed on or after January 1, 2018, but before January 1, 2023. The credit would be subject to an annual credit cap of \$500,000. Taxpayers would not be permitted to carry over unused credits to a later taxable year. The portion of this bill allowing an individual income tax credit for substantial-capacity solar equipment would be effective for taxable years beginning on or after January 1, 2018.

This bill would also provide for a mandatory local property tax exemption for substantial-capacity solar equipment certified by the local building department. The exemption would be applicable to either the local real property tax or the local machinery and tools tax and would be effective beginning in the next succeeding tax year. This property would not be eligible for a sales tax exemption.

This bill would define “substantial-capacity solar equipment” as a solar photovoltaic system installed at a residence that has a generation capacity of one to 20 kilowatts. The equipment would be required to be certified by the local building department.

The effective date of this bill is not specified.

Similar Legislation

House Bill 54 would create a tax credit against the corporate income tax, the insurance premiums license tax, and the tax on public service corporations in the amount of 35 percent of the installed cost of renewable energy property, up to \$15,000.

House Bill 469 would create an income tax credit in the amount of 10 percent of the purchase or lease price of an electric vehicle.

House Bill 1018 would create an income tax credit for the total installed cost of an energy storage system.

House Bill 1372 and **Senate Bill 573** would extend the sunset date for the Green Job Creation Tax Credit.

cc: Secretary of Finance

Date: 1/19/2018 JLOF
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