

# VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

## CHAPTER 697

An Act to amend and reenact §§ 58.1-2660, 58.1-2900, and 58.1-2904 of the Code of Virginia, relating to increasing the maximum allowable rates of special regulatory taxes that can be imposed by the State Corporation Commission on public service companies.

[H 129]

Approved April 6, 2020

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 58.1-2660, 58.1-2900, and 58.1-2904 of the Code of Virginia are amended and reenacted as follows:**

**§ 58.1-2660. Special revenue tax; levy.**

A. In addition to any other taxes upon the subjects of taxation listed herein, there is hereby levied, subject to the provisions of § 58.1-2664, a special regulatory revenue tax equal to ~~two-tenths~~ *twenty-six hundredths* of one percent of the gross receipts such person receives from business done within the Commonwealth upon:

1. Corporations furnishing water, heat, light or power, by means of gas or steam, except for electric suppliers, gas utilities, and gas suppliers as defined in § 58.1-400.2 and pipeline distribution companies as defined in § 58.1-2600;

2. Telegraph companies owning and operating a telegraph line apparatus necessary to communicate by telecommunications in the Commonwealth;

3. Telephone companies whose gross receipts from business done within the Commonwealth exceed \$50,000 or a company, the majority of stock or other property of which is owned or controlled by another telephone company, whose gross receipts exceed the amount set forth herein;

4. The Virginia Pilots' Association;

5. Railroads, except those exempt by virtue of federal law from the payment of state taxes, subject to the provisions of § 58.1-2661;

6. Common carriers of passengers by motor vehicle, except urban and suburban bus lines, a majority of whose passengers use the buses for traveling a daily distance of not more than 40 miles measured one way between their place of work, school or recreation and their place of abode; and

7. Any county, city or town that obtains a certificate pursuant to § 56-265.4:4.

B. Notwithstanding the rate specified in subsection A, the maximum rate of the special regulatory revenue tax shall be increased above such specified rate to the extent necessary to permit the Commission to recover the additional costs incurred by the Commission in implementing subdivision B 4 of § 56-265.4:4 that cannot be recovered through the specified rate.

**§ 58.1-2900. Imposition of tax.**

A. Effective January 1, 2001, there is hereby imposed, in addition to the local consumer utility tax of Article 4 (§ 58.1-3812 et seq.) of Chapter 38 and subject to the adjustments authorized by subdivision A 5 and by § 58.1-2902, a tax on the consumers of electricity in the Commonwealth based on kilowatt hours delivered by the incumbent distribution utility and used per month as follows:

1. Each consumer of electricity in the Commonwealth shall pay electric utility consumption tax on all electricity consumed per month not in excess of 2,500 kWh at the rate of ~~\$0.00155~~ *\$0.001595* per kWh, as follows:

State consumption tax rate	Special regulatory tax rate	Local consumption tax rate
\$0.00102/kWh	<del>\$0.00015/kWh</del> <i>\$0.000195/kWh</i>	\$0.00038/kWh

2. Each consumer of electricity in the Commonwealth shall pay electric utility consumption tax on all electricity consumed per month in excess of 2,500 kWh but not in excess of 50,000 kWh at the rate of ~~\$0.00099~~ *\$0.00102* per kWh, as follows:

State consumption tax rate	Special regulatory tax rate	Local consumption tax rate
\$0.00065/kWh	<del>\$0.00010/kWh</del> <i>\$0.00013/kWh</i>	\$0.00024/kWh

3. Each consumer of electricity in the Commonwealth shall pay electric utility consumption tax on all electricity consumed per month in excess of 50,000 kWh at the rate of ~~\$0.00075~~ *\$0.000771* per kWh, as follows:

State consumption tax rate	Special regulatory tax rate	Local consumption tax rate
\$0.00050/kWh	<del>\$0.00007/kWh</del> <i>\$0.000091/kWh</i>	\$0.00018/kWh

4. The tax rates set forth in subdivisions 1, 2, and 3 are in lieu of and replace the state gross receipts tax (§ 58.1-2626), the special regulatory revenue tax (§ 58.1-2660), and the local license tax (§ 58.1-3731) levied on corporations furnishing heat, light or power by means of electricity.

5. The tax on consumers under this section shall not be imposed on consumers served by an electric utility owned or operated by a municipality if such municipal electric utility elects to have an amount equivalent to the tax added on the bill such utility (or an association or agency of which it is a member) pays for bundled or unbundled transmission service as a separate item. Such amount, equivalent to the tax, shall be calculated under the tax rate schedule as if the municipal electric utility were selling and collecting the tax from its consumers, adjusted to exclude the amount which represents the local consumption tax if the locality in which a consumer is located does not impose a license fee rate pursuant to § 58.1-3731, and shall be remitted to the Commission pursuant to § 58.1-2901. Municipal electric utilities may bundle the tax in the rates charged to their retail customers. Notwithstanding anything contained herein to the contrary, the election permitted under this subdivision shall not be exercised by any municipal electric utility if the entity to whom the municipal electric utility (or an association or agency of which it is a member) pays for transmission service is not subject to the taxing jurisdiction of the Commonwealth, unless such entity agrees to remit to the Commonwealth all amounts equivalent to the tax pursuant to § 58.1-2901.

6. The tax on consumers set forth in subdivisions 1, 2, and 3 shall only be imposed in accordance with this subdivision on consumers of electricity purchased from a utility consumer services cooperative to the extent that such cooperative purchases, for the purpose of resale within the Commonwealth, electricity from a federal entity that made payments in accordance with federal law (i) in lieu of taxes during such taxable period to the Commonwealth and (ii) on the basis of such federal entity's gross proceeds resulting from the sale of such electricity. Such tax shall instead be calculated by deducting from each of the respective tax amounts calculated in accordance with subdivisions 1, 2, and 3 an amount equal to the calculated tax amount multiplied by the ratio of the total cost of power supplied by the federal entity, including facilities rental, during the taxable period to the utility consumer services cooperative's total operating revenue within the Commonwealth during the taxable period. The State Corporation Commission may audit the records and books of any utility consumer services cooperative that determines the tax on consumers in accordance with this subdivision to verify that the tax imposed has been correctly determined and properly remitted.

B. The tax authorized by this chapter shall not apply to municipalities' own use or to use by divisions or agencies of federal, state and local governments.

C. For purposes of this section, "kilowatt hours delivered" ~~shall mean~~ *means* in the case of eligible customer-generators, as defined in § 56-594, those kilowatt hours supplied from the electric grid to such customer-generators, minus the kilowatt hours generated and fed back to the electric grid by such customer-generators.

**§ 58.1-2904. Imposition of tax.**

A. ~~Effective January 1, 2001, there~~ *There* is hereby imposed, in addition to the local consumer utility tax of Article 4 (§ 58.1-3812 et seq.) of Chapter 38 of ~~this title~~, a tax on the consumers of natural gas in the Commonwealth based on volume of gas at standard pressure and temperature in units of 100 cubic feet (CCF) delivered by the pipeline distribution company or gas utility and used per month. Each consumer of natural gas in the Commonwealth shall pay tax on the consumption of all natural gas consumed per month not in excess of 500 CCF at the following rates: (i) state consumption tax rate of \$0.0135 per CCF, (ii) local consumption tax rate of \$0.004 per CCF, and (iii) a special regulatory tax rate of up to ~~\$0.002~~ *\$0.0026* per CCF.

B. The tax rates set forth in subsection A are in lieu of and replace the state gross receipts tax pursuant to § 58.1-2626, the special regulatory revenue tax pursuant to § 58.1-2660, and the local license tax pursuant to § 58.1-3731 levied on corporations furnishing heat, light or power by means of natural gas.

C. The tax of consumers under this section shall not be imposed on consumers served by a gas utility owned or operated by a municipality.

D. The tax authorized by this chapter shall not apply to use by divisions or agencies of federal, state and local governments.