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HOUSE BILL NO. 1295

Offered January 8, 2020

Prefiled January 8, 2020

A BILL to amend the Code of Virginia by adding in Chapter 26 of Title 58.1 an article numbered 6.1, consisting of sections numbered 58.1-2666 through 58.1-2669, relating to the establishment of a tax on fossil fuel investments by electric utilities; Clean Energy Development Fund established.

Patron—Helmer

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 26 of Title 58.1 an article numbered 6.1, consisting of sections numbered 58.1-2666 through 58.1-2669, as follows:

Article 6.1.

Fossil Fuel Infrastructure Taxes of Electric Utilities.

§ 58.1-2666. Definitions.

As used in this article, unless the context requires otherwise:

"Electric utility" means any person that generates, transmits, or distributes electric energy for use by retail customers in the Commonwealth that is regulated by the Commission as a public service corporation pursuant to Title 56.

"Fossil fuel" means any hydrocarbon fuel, including coal, petroleum coke, petroleum oil, or natural gas.

"Fossil fuel infrastructure" means any facility or improvement, whether real property or tangible personal property, or both, including any electric generation facility or fossil fuel pipeline, that (i) is constructed, developed, leased, or acquired by an electric utility; (ii) is used or useful to an electric utility in connection with its generation of electric power or the delivery of a fossil fuel used in connection with its generation of electric power; and (iii) combusts any fossil fuel in the process of generating electric energy or delivers a fossil fuel that is combusted for the purpose of generating electric energy.

"Fossil fuel investment" means an investment by or on behalf of an electric utility on or after July 1, 2020, in fossil fuel infrastructure that is properly chargeable to a capital account or would be so chargeable with a proper election.

"Fund" means the Clean Energy Development Fund created in this article.

"Qualified companies" means any person that is engaged in the business of developing electric power from renewable energy sources in the Commonwealth.

"Qualified customers" means a retail customer of an electric utility that (i) generates electric power for its own use using a renewable energy source owned by the retail customer or (ii) purchases from the electric utility electric power that is generated entirely using a renewable energy source.

"Renewable energy source" means one of the following sources of energy: (i) the sun; (ii) wind; (iii) tides; (iv) geothermal energy; (v) hydroelectric facilities; or (vi) digester gas.

§ 58.1-2667. Annual report.

Each electric utility shall report annually, by April 15, to the Commission the amount of all fossil fuel investments made by the electric utility in the Commonwealth during the preceding calendar year. Each report shall identify the county, city, town, or magisterial district in which such fossil fuel investment was made. The report shall be completed on forms prepared and furnished by the Commission. The Commission shall include on such forms such information as the Commission or the Department deems necessary for the proper administration of this article. The report shall demonstrate to the satisfaction of the Commission that the electric utility has not sought to recover from its customers any portion of the tax levied upon the electric utility pursuant to this article. The report shall be certified by the oath of the president or other designated official of the electric utility. Every electric utility failing to comply with the requirements of this section shall be subject to the imposition of a monetary penalty by the Commission as provided in § 58.1-2610.

§ 58.1-2668. Tax on fossil fuel investments; levy.

A. In addition to any other taxes upon electric utilities, there is hereby levied a tax upon each electric utility in an amount equal to:

1. Two and one-half percent of the amount of the electric utility's fossil fuel investments during 2021;

2. Five percent of the amount of the electric utility's fossil fuel investments during 2022;

3. Seven and one-half percent of the amount of the electric utility's fossil fuel investments during

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2023;

4. Ten percent of the amount of the electric utility's fossil fuel investments during 2024;

5. Fifteen percent of the amount of the electric utility's fossil fuel investments during 2025;

6. Twenty percent of the amount of the electric utility's fossil fuel investments during 2026;

7. Twenty-five percent of the amount of the electric utility's fossil fuel investments during 2027;

8. Thirty percent of the amount of the electric utility's fossil fuel investments during 2028;

9. Thirty-five percent of the amount of the electric utility's fossil fuel investments during 2029;

10. Forty percent of the amount of the electric utility's fossil fuel investments during 2030;

11. Forty-six percent of the amount of the electric utility's fossil fuel investments during 2031;

12. Fifty-two percent of the amount of the electric utility's fossil fuel investments during 2032;

13. Fifty-eight percent of the amount of the electric utility's fossil fuel investments during 2033;

14. Sixty-four percent of the amount of the electric utility's fossil fuel investments during 2034;

15. Seventy percent of the amount of the electric utility's fossil fuel investments during 2035;

16. Seventy-six percent of the amount of the electric utility's fossil fuel investments during 2036;

17. Eighty-two percent of the amount of the electric utility's fossil fuel investments during 2037;

18. Eighty-eight percent of the amount of the electric utility's fossil fuel investments during 2038;

19. Ninety-four percent of the amount of the electric utility's fossil fuel investments during 2039; and

20. One hundred percent of the amount of the electric utility's fossil fuel investments during 2040 and thereafter.

B. The tax imposed by this section shall be paid by such electric utility into the state treasury on or before June 1 of each year and shall be distributed in accordance with the provisions of § 58.1-2669.

C. No electric utility shall recover from its customers through rates or otherwise any portion of the tax imposed by this section. The tax imposed by this section shall not constitute a reasonable expense incurred by the electric utility in connection with its provision of service and shall be paid by the electric utility only from the portion of the electric utility's revenues that would, in the absence of this provision, constitute the electric utility's return on common equity.

§ 58.1-2669. Clean Energy Development Fund; purposes for which moneys shall be used.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Clean Energy Development Fund. The Fund shall be established on the books of the Comptroller. All revenues collected pursuant to the tax levied by § 58.1-2668 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller pursuant to subsection D.

B. Moneys in the Fund shall be used as determined by the Director of the Department of Mines, Minerals and Energy (the Department) to (i) reimburse the Department for expenses incurred in administering the fund, including the salary of a program administrator and staff within the Department who will be responsible for administering the Fund and designing programs; (ii) reduce the electric utility bills of customers that opt to purchase electricity from renewable energy sources; (iii) invest in renewable electric energy generation sources in low-income communities; (iv) establish and fund block grants to enable community solar facilities and energy storage installation; and (v) enable attainment of renewable portfolio standards based on regulations adopted by the Department. The terms, conditions, and requirements for block grants issued pursuant to this subsection, including application procedures and schedules, shall be established by regulations adopted by the Department.

C. No moneys in the Fund may be used for the generation of electric power from fossil fuels, biogas, or nuclear power.