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## SENATE BILL NO. 763

Offered January 8, 2020

Prefiled January 8, 2020

A *BILL to amend and reenact § 58.1-3660 of the Code of Virginia, relating to the real estate tax exemption for certified pollution control equipment and facilities.*

Patron—Barker

Referred to Committee on Finance and Appropriations

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

**1. That § 58.1-3660 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-3660. Certified pollution control equipment and facilities.**

A. As used in this section:

"Applied for interconnection" means, with respect to a solar photovoltaic (electric energy) system, the filing of an initial interconnection request form with an electric utility or a regional transmission organization.

"Megawatts" means megawatts as measured in alternating current (AC) generation capacity.

"State certifying authority" means the State Water Control Board or the Virginia Department of Health, for water pollution; the State Air Pollution Control Board, for air pollution; the Department of Mines, Minerals and Energy, for solar energy projects and for coal, oil, and gas production, including gas, natural gas, and coalbed methane gas; and the Virginia Waste Management Board, for waste disposal facilities, natural gas recovered from waste facilities, and landfill gas production facilities, and includes any interstate agency authorized to act in place of a certifying authority of the Commonwealth.

B. Certified pollution control equipment and facilities, as defined ~~herein~~, in subsections C, D, and E, are hereby declared to be a separate class of property ~~and~~, shall constitute a classification for local taxation separate from other such classification of real or personal property ~~and such property~~. Certified pollution control equipment and facilities, and, subject to the provisions of subsections C, D, and E, shall be exempt from state and local taxation pursuant to Article X, Section 6 (d) of the Constitution of Virginia.

B. As used in this section:

C. 1. As used in this subsection, ~~"Certified~~ "certified pollution control equipment and facilities" ~~shall mean~~ means any property, including real or personal property, equipment, facilities, or devices, used primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the Commonwealth and which the state certifying authority having jurisdiction with respect to such property has certified to the Department of Taxation as having been constructed, reconstructed, erected, or acquired in conformity with the state program or requirements for abatement or control of water or atmospheric pollution or contamination. Such property shall include, but is not limited to:

2. Certified pollution control equipment and facilities shall be eligible for the exemption provided pursuant to this section only if the state certifying authority having jurisdiction with respect to such equipment has certified to the Department of Taxation that such equipment has been constructed, reconstructed, erected, or acquired in conformity with the state program or requirements for abatement or control of water or atmospheric pollution or contamination or other applicable requirements; however, the certification requirement imposed by this subdivision shall not apply to equipment described in subsections D and E.

3. For certified pollution control equipment and facilities certified by the Virginia Department of Health, the exemption provided pursuant to this section applies only to onsite sewage systems that serve 10 or more households, use nitrogen-reducing processes and technology, and are constructed, wholly or partially, with public funds.

D. As used in this subsection, "certified pollution control equipment and facilities" means any equipment used to grind, chip, or mulch trees, tree stumps, underbrush, and other vegetative cover for reuse as mulch, compost, landfill gas, synthetic or natural gas recovered from waste or other fuel, and equipment used in collecting, processing, and distributing, or generating electricity from, landfill gas or synthetic or natural gas recovered from waste; ~~whether or not such property has been certified to the Department of Taxation by a state certifying authority~~. Such property shall also include

E. 1. As used in this subsection, "certified pollution control equipment and facilities" means solar energy equipment, facilities, or devices owned or operated by a business that collect, generate, transfer, or store thermal or electric energy ~~whether or not such property has been certified to the Department of Taxation by a state certifying authority~~.

2. For solar photovoltaic (electric energy) systems, ~~this the exemption provided pursuant to this section applies only to (i) projects:~~

~~a. Projects equaling 20 megawatts or less, as measured in alternating current (AC) generation capacity, for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization that applied for interconnection on or before December 31, 2018; (ii) projects~~

~~b. Projects equaling 20 megawatts or less, as measured in alternating current (AC) generation capacity, that serve any of the public institutions of higher education listed in § 23.1-100 or any private college as defined in § 23.1-105; (iii) 80~~

~~c. Eighty percent of the assessed value of projects for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization (a) that applied for interconnection (i) between January 1, 2015, and June 30, 2018, for projects greater than 20 megawatts or (b) (ii) on or after July 1, 2018, for projects greater than 20 megawatts and less than 150 megawatts, as measured in alternating current (AC) generation capacity, and that are first in service on or after January 1, 2017; (iv) projects~~

~~d. Projects equaling five megawatts or less, as measured in alternating current (AC) generation capacity, for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization that applied for interconnection on or after January 1, 2019; and (v) 80~~

~~e. Eighty percent of the assessed value of all other projects equaling more than greater than five megawatts and less than 150 megawatts, as measured in alternating current (AC) generation capacity for which an initial interconnection request form has been filed with an electric utility or a regional transmission organization that applied for interconnection on or after January 1, 2019.~~

3. ~~The exemption provided pursuant to this section for solar photovoltaic (electric energy) projects greater than five megawatts shall be reduced by multiplying the value of the exemption provided in subdivision 2 by an applicable percentage, as follows:~~

~~a. From the date commercial operation commences through the date five years after commercial operation commences, 80 percent;~~

~~b. From the day after the date five years after commercial operation commences through the date 10 years after commercial operation commences, 70 percent; and~~

~~c. From the day after the date 10 years after commercial operation commences through the date commercial operation ceases, 60 percent.~~

4. ~~The exemption provided pursuant to this section for solar photovoltaic (electric energy) projects greater than 20 five megawatts, as measured in alternating current (AC) generation capacity, shall not apply to projects upon which construction begins after January 1, 2024 2030.~~

~~For pollution control equipment and facilities certified by the Virginia Department of Health, this exemption applies only to onsite sewage systems that serve 10 or more households, use nitrogen-reducing processes and technology, and are constructed, wholly or partially, with public funds. All such property as described in this definition~~

~~F. The exemption provided pursuant to this section shall not include apply to the land on which such the certified pollution control equipment or and facilities, as described in subsections B, C, and E, are located.~~

~~"State certifying authority" shall mean the State Water Control Board or the Virginia Department of Health, for water pollution; the State Air Pollution Control Board, for air pollution; the Department of Mines, Minerals and Energy, for solar energy projects and for coal, oil, and gas production, including gas, natural gas, and coalbed methane gas; and the Virginia Waste Management Board, for waste disposal facilities, natural gas recovered from waste facilities, and landfill gas production facilities, and shall include any interstate agency authorized to act in place of a certifying authority of the Commonwealth.~~