

DEPARTMENT OF TAXATION

2020 Fiscal Impact Statement

1. **Patron** Frank M. Ruff, Jr.

2. **Bill Number** SB 962

3. **Committee** Senate Finance and Appropriations

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

4. **Title** Public Service Corporations Taxation;
Income and Receipts; Local Assessment

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This Fiscal Impact Statement is limited to taxes administered by the Department of Taxation ("the Department").

This bill would repeal existing state and local gross receipts, revenue, and alternative minimum taxes that currently apply to public service corporations.

The bill would also eliminate the authority of the State Corporation Commission ("SCC") to assess the value of real and personal property of public service corporations and the authority of the Department to assess the tax value of real and personal property of railroads and pipeline transmission companies. However, the Department would retain authority to assess rolling stock of railroads. The responsibility of assessing the real and personal property of public service corporations, except the rolling stock of railroads, would be transferred to localities.

Under current law, the property of public service corporations is assessed by SCC or the Department and made subject to local taxation. Public service companies are also subject to local Business Professional and Occupational License (BPOL) taxes at a rate not to exceed one-half of one percent of the gross receipts. Further, public service corporations are subject to state license taxes and state corporate income tax or an alternative minimum tax.

If enacted during the Regular Session of the 2020 General Assembly, this bill would become effective July 1, 2020.

6. **Budget amendment necessary:** No

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

8. Fiscal implications:

Administrative Costs

This bill would result in significant but unknown administrative costs to localities as a result of new assessment responsibilities regarding public service corporations.

This bill would result in significant reductions in state administrative costs. However, all salaries of staff for both the SCC and the Department for the assessment of public service companies are paid by the SCC's special regulatory tax fund, there would be no gain to the general fund due to elimination of these positions. There would also be no gain to the special tax fund because the SCC sets the special tax rate annually that is levied on the utilities. If the General Fund is required to absorb the cost of the Department's current functions related to public service company property assessment, the annual cost to the General Fund would be \$233,000.

Revenue Impact

- There would be a negative General Fund impact from the license tax collected annually on water companies by the SCC of approximately \$2.3 million annually.
- Elimination of the telecommunication minimum tax would result in a loss of \$43.2 million annually;
- Elimination of the minimum tax on electric suppliers would result in revenue loss of between \$51.94 and \$56 million annually; and
- Elimination of BPOL tax on public service corporations will impact local revenue, however this is an unknown revenue loss to localities.

9. Specific agency or political subdivisions affected:

Department of Taxation
State Corporation Commission
Localities

10. Technical amendment necessary: Yes

11. Other comments:

Background

Article X, Section 2 of *The Constitution of Virginia* establishes that:

So long as the Commonwealth shall levy upon any public service corporation a State franchise, license, or other similar tax based upon or measured by its gross receipts or gross earnings, or any part thereof, its real estate and tangible personal property shall be assessed by a central State agency, as prescribed by law.

Property Taxes

The Department of Taxation furnishes to each county, city or town in which the property of public service corporations is located, the total assessed value of real estate in such county, city or town; and the local assessment ratio to be applied within that county, city or town.

The State Corporation Commission assesses the value of the reported property of each telegraph, telephone, water, heat, light, power company, and electric supplier, except pipeline transmission companies.

All real estate tax rates applicable in the respective locality are applied to the real estate and tangible personal property of public service corporations. However, all aircraft, automobiles and trucks of public service corporations are taxed at the same rate or rates applicable to other aircraft, automobiles and trucks in the respective locality.

State License Tax

Every corporation in the Commonwealth in the business of furnishing water, heat, light or power, except certain pipeline transmission companies pipeline distribution companies and gas utilities and gas suppliers, or electric suppliers, pay to the Commonwealth for each tax year an annual license tax equal to two percent of its gross receipts, actually received, from all sources. This license tax is in lieu of all other state license or franchise taxes on such corporation, and in lieu of any tax upon the shares of stock issued by it.

Every pipeline transmission company pays to the Department on its allocated and apportioned net taxable income, in lieu of a license tax, the State Income Tax with a deduction from net income, an amount equal to the percentage that gross profit derived from sales in Virginia for consumption by the purchaser of natural or manufactured gas is of the total gross profit in the Commonwealth of the taxpayer.

Income and Alternative Minimum Tax

Every railway company or telecommunications company is subject to the corporate income tax or an alternative minimum tax.

A telecommunications company that is incorporated is subject to a minimum tax, instead of the corporate income tax that is imposed at the applicable rate on its gross receipts. A telecommunications company that is organized as a limited liability company, partnership, corporation that has made an election under subchapter S of the Internal Revenue Code, or other entity treated as a pass-through entity is subject to the minimum tax in the manner prescribed by regulation. The minimum tax is imposed at the rate of 0.5 percent of gross receipts.

An electric supplier, except for those organized as cooperatives and exempt from federal taxation are subject to a minimum tax instead of the corporate income tax. The minimum tax imposed is equal to 1.45 percent of such electric supplier's gross receipts for the

calendar year that ends during the taxable year minus the state's portion of the electric utility consumption tax billed to consumers.

BPOL Taxes

Every county, city or town is authorized to impose a license tax on telephone and telegraph companies; water companies; and heat, light and power companies at a rate not to exceed one-half of one percent of the gross receipts of such company accruing from sales to the ultimate consumer in such county, city or town.

Proposal

The bill would repeal existing state and local gross receipts, revenue, and alternative minimum taxes that currently apply to public service corporations.

The bill also eliminates the authority of the State Corporation Commission to assess the value of real and personal property of public service corporations and eliminates the authority of the Department of Taxation to assess the tax value of real and personal property of railroads and pipeline transmission companies. However, the Department of Taxation would retain authority to assess rolling stock of railroads. The responsibility of assessing the real and personal property of public service corporations, except the rolling stock of railroads, would be transferred to localities.

If enacted during the Regular Session of the 2020 General Assembly, this bill would become effective July 1, 2020.

cc: Secretary of Finance

Date: 2/1/2020 SK
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