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SENATE BILL NO. 5118

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Commerce and Labor
on August 28, 2020)

(Patron Prior to Substitute—Senator McClellan)
Senate Amendments in [] — September 16, 2020

A BILL to require certain utilities to develop an Emergency Debt Repayment Plan.

Be it enacted by the General Assembly of Virginia:

1. § 1. Notwithstanding any other provision of law, every jurisdictional utility shall develop an Emergency Debt Repayment Plan (EDRP) for arrearages accrued during a state of emergency or service disconnection moratorium as defined herein by residential customers. Jurisdictional utilities may collaborate or partner with third-party organizations, institutions, or agencies for the purpose of successful compliance and implementation of its EDRP.

An EDRP shall be designed to ensure that debt accrued during the state of emergency or the service disconnection moratorium, in addition to the residential customer's regular utility bill, are sustainable and affordable for the residential customer and shall allow for (i) an up to 12-month repayment period and (ii) a residential customer to roll over remaining debt with any debt accrued under a subsequent state of emergency. A jurisdictional utility shall not require any new deposit or application fee or any other new type of advance payment before enrolling a residential customer in an EDRP and shall not charge any interest, late fees, finance charges, or prepayment penalties on the unpaid debt while the residential customer is enrolled in an EDRP. A jurisdictional utility shall coordinate its EDRP with any other relevant financial assistance programs, energy assistance and weatherization programs, or percentage of income payment programs. Nothing shall preclude a jurisdictional utility from including additional arrearages accrued by the residential customer not related to the state of emergency in an EDRP upon mutual agreement between the jurisdictional utility and the residential customer. Prior to disconnecting for nonpayment any residential customer who has an overdue balance accrued during the state of emergency of service disconnection moratorium, a jurisdictional utility shall work in collaboration with the residential customer to seek and apply any available resources that either reduce or eliminate such accumulated balance or enroll the residential customer to repay the accumulated debt through other available repayment programs offered by the jurisdictional utility or in which the jurisdictional utility participates for its residential customers. If such repayment programs are not available to the residential customer or do not afford the residential customer sustainable repayment options for that residential customer, then the jurisdictional utility shall offer to enroll the residential customer into the EDRP.

Every jurisdictional utility shall provide its residential customers, in the same manner the residential customer receives billing information, which may be by bill insert or bill notice, with information detailing its EDRP. The jurisdictional utility shall not disconnect service for nonpayment any residential customer enrolled in the plan provided that the residential customer remains in compliance with the terms of the EDRP and remains current on the residential customer's current jurisdictional utility bill as that bill may be due and payable. If a residential customer fails to pay in full the amounts due under the EDRP, and the residential customer and the jurisdictional utility have not agreed to a modification of the terms of the EDRP, nothing under this act shall prevent a new payment plan or from disconnecting service.

[The Commission shall allow for the timely recovery of bad debt obligations, reasonable late payment fees suspended, and prudently incurred implementation costs resulting from an EDRP for jurisdictional utilities, including through a rate adjustment clause or through base rates. The Commission may apply any applicable earnings test in the Commission rules governing utility rate applications and annual informational filings when assessing the recovery of such costs.] Utilities shall prepare a report that contains the following anonymized information: (a) the number of accounts remaining in the EDRP; (b) the total amount of and average of debt for accounts remaining in the EDRP; (c) the number of accounts removed from the EDRP, categorized by reason; (d) the amount of and average of debt still remaining for accounts removed from the EDRP, and (e) the amount of recorded deferrals of expenses authorized by that certain order of the Commission in Case Number PUR-2020-00074. Utilities under the Commission's jurisdiction shall provide the aggregated anonymized report containing such compiled information to the Commission no later than January 1, 2021, for the period of June 15, 2020, through December 15, 2020, and no later than January 1, 2022, for the period of December 16, 2020, through December 15, 2021. The Commission shall provide an aggregated anonymized report by utility type containing such compiled information to the chairs of the House Committees on Labor and Commerce and Appropriations and the Senate Committees on Commerce and

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60 *Labor and Finance and Appropriations no later than January 15, 2021, for the period of June 15, 2020,*
61 *through December 15, 2020, and no later than January 15, 2022, for the period of December 16, 2020,*
62 *through December 15, 2021.*

63 *Every municipal utility shall provide [, upon request,] an aggregated anonymized report to the*
64 *chairs of the House Committees on Labor and Commerce and Appropriations and the Senate*
65 *Committees on Commerce and Labor and Finance and Appropriations that contains the following*
66 *information: (1) the number of accounts participating in a repayment plan; (2) the total amount of and*
67 *average of debt for accounts participating in a repayment plan; (3) the number of accounts removed*
68 *from a repayment plan, categorized by reason; (4) the amount of and average of debt still remaining for*
69 *accounts removed from a repayment plan; and (5) the carrying costs of the debt for accounts*
70 *participating in a repayment plan and any associated administrative costs incurred. Such municipal*
71 *utilities shall provide such report [~~no later than January 15, 2021, for the period of June 15, 2020,~~*
72 *~~through December 15, 2020, and no later than January 15, 2022, for the period of December 16, 2020,~~*
73 *~~through December 15, 2021~~ within 30 days of a request by the chairs of such committees] .*

74 *No later than [~~November 20, 2020~~ January 1, 2021] , the Commission shall provide an aggregated*
75 *anonymized report to the chairs of the House Committees on Labor and Commerce and Appropriations*
76 *and the Senate Committees on Commerce and Labor and Finance and Appropriations containing the*
77 *following information by utility type: (A) the outstanding aged accounts receivable balances as of May*
78 *31, 2020, resulting from the service disconnection moratorium; (B) associated collections from*
79 *residential customers during each of the months of June, July, and August 2020; (C) associated*
80 *additions to aged accounts receivable balances during each of the months of June, July, and August*
81 *2020; and (D) the resulting aged accounts receivable balances, net of collections and additions, as of*
82 *June 30, July 31, and August 31, 2020.*

83 *Nothing in this act shall be construed to grant any additional jurisdiction or authority to the*
84 *Commission over any utilities not otherwise conferred by law.*

85 *§ 2. As used in this act:*

86 *"Commission" means the State Corporation Commission.*

87 *"Municipal utility" means a utility providing electric, gas, or water or wastewater service that is*
88 *owned or operated by a city, county, town, authority, or other political subdivision of the*
89 *Commonwealth.*

90 *"Service disconnection moratorium" means that certain order of the State Corporation Commission*
91 *in Case Number PUR-2020-00048 issued on June 12, 2020, or any successor order.*

92 *"State of emergency" means the state of emergency declared by the Governor in Executive Order 51,*
93 *as amended, or any successor state of emergency issued by the Governor pursuant to § 44-146.17 of the*
94 *Code of Virginia in response to the COVID-19 pandemic.*

95 *"Subsequent state of emergency order" means a future state of emergency issued by the Governor*
96 *pursuant to § 44-146.17 of the Code of Virginia in response to a communicable disease of public health*
97 *threat as defined in § 44-146.16 of the Code of Virginia that is unrelated to the COVID-19 pandemic.*

98 *"Jurisdictional utility" means a utility providing electric, gas, or water or wastewater service that is*
99 *subject to regulation by the Commission.*