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SENATE BILL NO. 1385

Offered January 13, 2021

Prefiled January 12, 2021

A *BILL to amend and reenact § 15.2-816.1 of the Code of Virginia, relating to underground utility lines; Fairfax County.*

Patrons—Surovell and Ebbin; Delegates: Krizek, Sickles and Tran

Referred to Committee on Local Government

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-816.1 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-816.1. Underground electric distribution, telecommunications, cable, and other utility lines.

A. There is hereby established a pilot program under which the *The* governing body of any locality operating under the urban county executive form of government may request an electric utility, *telecommunications provider, cable provider, or other utility* to place underground electric distribution lines in transportation projects to serve and facilitate the creation of transit-oriented development in such locality in conjunction with, *telecommunications lines, cable lines, or other utility lines as part of a* transportation infrastructure improvement project *or roads serving such project* that the Commonwealth Transportation Board *or such locality* identifies that ~~reduces~~ *reduce* congestion, ~~improves~~ *improve* mobility, ~~incorporates~~ *improve* transit systems *system infrastructure*, and ~~improves~~ *or improve* safety. Such pilot program shall further an understanding of such underground electric distribution lines in regard to electric reliability, construction methods and related cost and timeline estimating, and the probability of meeting such projections. The pilot program shall consist of the approval to convert qualifying electric distribution lines in whole or in part underground in areas of transit-oriented developments in conjunction with a transportation infrastructure project the Commonwealth Transportation Board identifies. The pilot program shall terminate on July 1, 2022, after which date no agreement shall be entered into pursuant to subsection B. The termination of the pilot program shall not affect any such agreement entered into prior to such date or any of the terms of such an agreement, including any additional levy imposed pursuant to such an agreement *while encouraging higher density development.*

B. The locality operating under the urban county executive form of government and the utility shall *may* enter into an agreement *with an electric utility, telecommunications provider, cable provider, or other utility* that provides that (i) the locality shall pay to the utility its ~~full additional~~ *or provider its agreed upon* costs of relocating and converting that portion of the line located in the locality underground rather than overhead that are not recoverable under applicable rates, *minus the net of* relocation credits, which costs shall include associated feasibility costs, or any smaller portion of such costs as the utility and the locality may agree; (ii) the locality shall impose an additional levy on electric utility customers in the locality pursuant to ~~§ 58.1-3814~~ in an amount sufficient to cover the utility's additional costs, which additional levy shall be collected by the utility on behalf of the locality *utility or provider shall convert, operate, and maintain the agreed portion of the line underground in cooperation with any other utility or provider with lines placed underground there;* (iii) the utility shall ~~convert, operate, and maintain the agreed portion of the line underground;~~ and agreement is contingent upon the adoption of the levy set forth in subsection C; and (iv) other terms and conditions on which the parties may agree shall be included in the agreement. *No agreement shall require any telecommunications provider or cable provider to share conduit.*

C. If the locality operating under the urban county executive form of government and the utility enter into an agreement as described in subsection B, the locality *may impose an additional levy on electric utility customers in the locality pursuant to § 58.1-3814. The locality shall by ordinance fix the amount of such additional levy, which shall not exceed \$1 per month on residential customers provided that the initial proceeds of such levy shall be dedicated to a project incorporating bus rapid transit on a road in the National Highway System serving a Metrorail station and an anticipated extension of Metrorail in a designated revitalization area in such locality.* Any levy imposed pursuant to this section shall be in addition to the limit for any utility consumer tax prescribed in § 58.1-3814. *If the provisions of this section are inconsistent with the provisions of § 58.1-3814, the provisions of this act shall be controlling.*

D. ~~Upon~~ *The locality may or the Commissioner of Highways, upon presentation of the agreement to the Commonwealth Transportation Board, the Commissioner of Highways shall be responsible for*

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SB1385

59 securing the necessary easements and permits for the utility *or provider necessary* for the conversion of
60 the existing distribution, *telecommunication, cable, or other utility* lines; ~~based upon plans that the~~
61 ~~electric utility provides~~. The ~~electric~~ utility *or provider* shall take such other actions as it deems
62 appropriate in furtherance of the conversion of the approved distribution, *telecommunication, cable, or*
63 *other utility* line, including acquiring the materials necessary for the underground installation.

64 E. If the provisions of this section are inconsistent with the provisions of any other law ~~or~~, local
65 ordinance, *except for a local zoning ordinance or review, or franchise agreement*, the provisions of this
66 section shall be controlling.

67 F. For purposes of this section, the term "electric utility" includes any cooperative, as that term is
68 defined in § 56-231.15, operating within the locality.