

2021 SPECIAL SESSION I

SENATE SUBSTITUTE

21200387D

HOUSE BILL NO. 2118

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance and Appropriations
on February 17, 2021)

(Patron Prior to Substitute—Delegate Keam)

A BILL to amend and reenact § 58.1-3660 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 56-585.1:13, relating to electric utilities; electric school bus projects; report.

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3660 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 56-585.1:13 as follows:

§ 56-585.1:13. *Development of electric school bus projects; report.*

A. As used in this section:

"Electric school bus" means a school bus, as defined in § 46.2-100, that is powered by an electric motor drawing current from rechargeable storage batteries that are recharged with electric energy from an electric vehicle charging station.

"Electric school bus project" means a project conducted by a utility in partnership with a participating school division for the use of electric school buses, along with associated charging stations and other infrastructure, for the purpose of transporting students of any public school division within the Commonwealth and that may also serve as an electric grid stabilization or peak-shaving resource.

"Incremental costs of purchasing and deploying electric school buses" means the amount by which the costs of purchasing and deploying electric school buses, including the costs of associated electric school bus charging infrastructure, exceeds the costs of purchasing and deploying diesel school buses.

"Participating school division" means a school division within a utility's service territory that participates in an electric school bus project pursuant to an agreement between its school board and the utility.

"Phase II utility" means an investor-owned incumbent electric utility that was, as of July 1, 1999, bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002.

"Program costs" means the incremental costs of purchasing and deploying electric school buses to participating school divisions, including associated administrative and operating costs, that are incurred by a Phase II utility pursuant to this section.

"Utility" means a Phase II utility.

B. Any electric school bus project and its corresponding agreement shall meet the following requirements:

1. Any electric school buses associated with an electric school bus project shall be procured pursuant to a competitive solicitation process conducted by the utility in consultation with the Department of Education and the Department of General Services;

2. Any electric school bus shall be equipped with lap and shoulder belts in accordance with recommendations from the National Transportation Safety Board;

3. A utility shall limit the total number of electric school buses entering the project to no more than an average of 250 electric school buses in each calendar year, and no more than 1,250 electric school buses in total shall participate in such project;

4. Consideration shall be given to the locational benefits that the electric school buses' storage batteries are expected to contribute to the utility's electric grid;

5. Electric school buses shall be titled with the name of the participating school division as the primary owner; however, the utility shall own the storage batteries and associated charging stations and related infrastructure used in the electric school buses;

6. The participating school division shall be compensated for use of an electric school bus battery as an electric grid stabilization or peak-shaving resource when such use compromises the participating school division's ability to transport its students either due to bus unavailability or insufficient charge;

7. Any electric energy from an electric school bus that is utilized by a utility in connection with grid stability aspects of such a project shall be replaced at no cost to the participating school division;

8. No participating school division shall be required to pay a utility for the cost associated with the installation, operation, and maintenance of charging stations or other infrastructure or equipment; and

9. A participating school division shall be responsible for the operation and maintenance of any electric school bus used pursuant to such program, and a participating school division may retain any expense savings, including fuel cost savings, that it achieves in connection with such program.

C. Any electric school bus project meeting the requirements of this section (i) is in the public interest

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60 and (ii) provided that it meets the requirements of subdivision E of 56-585.5, shall qualify as an energy
61 storage project pursuant to § 56-585.5. If any revenues are generated from the leasing of utility-owned
62 electric school buses or associated charging stations or other infrastructure to a school board, such
63 revenues shall be applied by the utility to offset the costs of the related equipment.

64 D. Nothing in this section shall authorize a utility to directly engage in student transportation. A
65 participating utility shall not incur any liability for civil damages arising out of acts or omissions
66 related to the operation or maintenance of an electric school bus included in a program conducted
67 pursuant to this section.

68 E. Any utility that participates in an electric school bus project shall report annually on the status of
69 its participating in such program to the Governor, the Commission, and the Chairs of the House
70 Committee on Labor and Commerce and the Senate Committee on Commerce and Labor.

71 F. Each utility that elects to operate an electric school bus project shall be entitled to recover all
72 reasonable and prudent program costs and shall petition the Commission for the recovery of such costs
73 pursuant to subsection D of § 56-585.5.

74 G. Each utility shall be required, in building the charging stations and other infrastructure pursuant
75 to this section, and in maintenance thereof, to (i) pay the local prevailing wage rate as determined by
76 the U.S. Secretary of Labor under the provisions of the federal Davis-Bacon Act, 40 U.S.C § 276 et
77 seq., as amended, to each laborer, workman, electrician, and mechanic the utility employs for the
78 project; (ii) participate in apprenticeship programs that have been certified by the Department of Labor
79 and Industry or the U.S. Department of Labor; (iii) establish preferences for hiring veterans, as that
80 term is defined in § 2.2-2000.1, local workers, women, and workers from historically economically
81 disadvantaged communities for work performed; and (iv) require that the provisions of clauses (i), (ii),
82 and (iii) be included in every subcontract so that the provisions will be binding upon each
83 subcontractor.

84 **§ 58.1-3660. Certified pollution control equipment and facilities.**

85 A. Certified pollution control equipment and facilities, as defined herein, are hereby declared to be a
86 separate class of property and shall constitute a classification for local taxation separate from other such
87 classification of real or personal property and such property. Certified pollution control equipment and
88 facilities shall be exempt from state and local taxation pursuant to Article X, Section 6 (d) of the
89 Constitution of Virginia.

90 B. As used in this section:

91 "Certified pollution control equipment and facilities" means any property, including real or personal
92 property, equipment, facilities, or devices, used primarily for the purpose of abating or preventing
93 pollution of the atmosphere or waters of the Commonwealth and which the state certifying authority
94 having jurisdiction with respect to such property has certified to the Department of Taxation as having
95 been constructed, reconstructed, erected, or acquired in conformity with the state program or
96 requirements for abatement or control of water or atmospheric pollution or contamination, except that in
97 the case of equipment, facilities, devices, or other property intended for use by any political subdivision
98 in conjunction with the operation of its water, wastewater, stormwater, or solid waste management
99 facilities or systems, including property that may be financed pursuant to Chapter 22 (§ 62.1-224 et seq.)
100 of Title 62.1, the state certifying authority having jurisdiction with respect to such property shall, upon
101 the request of the political subdivision, make such certification prospectively for property to be
102 constructed, reconstructed, erected, or acquired for such purposes. Such property shall include, but is not
103 limited to, any equipment used to grind, chip, or mulch trees, tree stumps, underbrush, and other
104 vegetative cover for reuse as mulch, compost, landfill gas, synthetic or natural gas recovered from waste
105 or other fuel, and equipment used in collecting, processing, and distributing, or generating electricity
106 from, landfill gas or synthetic or natural gas recovered from waste, whether or not such property has
107 been certified to the Department of Taxation by a state certifying authority. Such property shall also
108 include solar energy equipment, facilities, or devices owned or operated by a business that collect,
109 generate, transfer, or store thermal or electric energy whether or not such property has been certified to
110 the Department of Taxation by a state certifying authority. Such property shall also include electric
111 school buses and associated charging and other infrastructure that is related or incidental to an electric
112 school bus project authorized pursuant to § 56-585.1:13. All such property as described in this
113 definition shall not include the land on which such equipment or facilities are located.

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

121 C. For solar photovoltaic (electric energy) systems, this exemption applies only to (i) projects

122 equaling 20 megawatts or less, as measured in alternating current (AC) generation capacity, for which an
123 initial interconnection request form has been filed with an electric utility or a regional transmission
124 organization on or before December 31, 2018; (ii) projects equaling 20 megawatts or less, as measured
125 in alternating current (AC) generation capacity, that serve any of the public institutions of higher
126 education listed in § 23.1-100 or any private college as defined in § 23.1-105; (iii) 80 percent of the
127 assessed value of projects for which an initial interconnection request form has been filed with an
128 electric utility or a regional transmission organization (a) between January 1, 2015, and June 30, 2018,
129 for projects greater than 20 megawatts or (b) on or after July 1, 2018, for projects greater than 20
130 megawatts and less than 150 megawatts, as measured in alternating current (AC) generation capacity,
131 and that are first in service on or after January 1, 2017; (iv) projects equaling five megawatts or less, as
132 measured in alternating current (AC) generation capacity, for which an initial interconnection request
133 form has been filed with an electric utility or a regional transmission organization on or after January 1,
134 2019; and (v) 80 percent of the assessed value of all other projects equaling more than five megawatts
135 and less than 150 megawatts, as measured in alternating current (AC) generation capacity for which an
136 initial interconnection request form has been filed with an electric utility or a regional transmission
137 organization on or after January 1, 2019. *Such property shall also include solar photovoltaic (electric*
138 *energy) charging stations and other infrastructure that is related or incidental to an electric school bus*
139 *project authorized pursuant to § 56-585.1:13.*

140 D. The exemption for solar photovoltaic (electric energy) projects greater than five megawatts, as
141 measured in alternating current (AC) generation capacity, shall not apply to any such project unless an
142 application has been filed with the locality for the project before July 1, 2030, regardless of whether a
143 locality assesses a revenue share on such project pursuant to the provisions of § 58.1-2636. If a locality
144 adopts an energy revenue share ordinance under § 58.1-2636, the exemption for solar photovoltaic
145 (electric energy) projects greater than five megawatts, as measured in alternating current (AC) generation
146 capacity, shall be 100 percent of the assessed value. If a locality does not adopt an energy revenue share
147 ordinance under § 58.1-2636, the exemption for solar photovoltaic (electric energy) projects greater than
148 five megawatts, as measured in alternating current (AC) generation capacity, for which an initial
149 interconnection request form has been filed with an electric utility or a regional transmission
150 organization, shall be 80 percent of the assessed value when an application has been filed with the
151 locality prior to July 1, 2030. For purposes of this subsection, "application has been filed with the
152 locality" means an applicant has filed an application for a zoning confirmation from the locality for a
153 by-right use or an application for land use approval under the locality's zoning ordinance to include an
154 application for a conditional use permit, special use permit, special exception, or other application as set
155 out in the locality's zoning ordinance.

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

159 F. Notwithstanding any provision to the contrary, for any solar photovoltaic project described in
160 clauses (iii) and (v) of subsection C for which an initial interconnection request form has been filed with
161 an electric utility or a regional transmission organization on or after January 1, 2019, the amount of the
162 exemption shall be as follows: 80 percent of the assessed value in the first five years in service after
163 commencement of commercial operation, 70 percent of the assessed value in the second five years in
164 service, and 60 percent of the assessed value for all remaining years in service.