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SENATE BILL NO. 928

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance)

(Patron Prior to Substitute—Senator Colgan)

Senate Amendments in [] — February 3, 1997

A BILL to amend and reenact § 58.1-2600 of the Code of Virginia, relating to state license tax on certain public service corporations.

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-2600 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-2600. Definitions.

As used in this chapter:

"Certificated motor vehicle carrier" means a common carrier by motor vehicle, as defined in § 46.2-2000, operating over regular routes under a certificate of public convenience and necessity issued by the Commission or issued on or after July 1, 1995, by the Department of Motor Vehicles. A transit company or bus company that is owned or operated directly or indirectly by a political subdivision of this Commonwealth shall not be deemed a "certificated motor vehicle carrier" for the purposes of this chapter and shall not be subject to the imposition of the tax imposed in § 58.1-2652, nor shall such transit company or bus company thereby be subject to the imposition of local property levies. A common carrier of property by motor vehicle shall not be deemed a "certificated motor vehicle carrier" for the purposes of this chapter and shall not be subject to the imposition of the tax imposed in § 58.1-2652, but shall be subject to the imposition of local property taxes.

(Effective until December 31, 2001) "Cogenerator" means a qualifying cogenerator or qualifying small power producer within the meaning of regulations adopted by the Federal Energy Regulatory Commission in implementation of the Public Utility Regulatory Policies Act of 1978 (P.L. 95-617).

"Commission" means the State Corporation Commission which is hereby designated pursuant to Article X, Section 2 of the Constitution of Virginia as the central state agency responsible for the assessment of the real and personal property of all public service corporations, except those public service corporations for which the Department of Taxation is so designated, upon which the Commonwealth levies a license tax measured by the gross receipts of such corporations. The State Corporation Commission shall also assess the property of each telephone or telegraph company.

"Department" means the Department of Taxation which is hereby designated pursuant to Article X, Section 2 of the Constitution of Virginia as the central state agency to assess the real and personal property of railroads and pipeline transmission companies as defined herein.

"Estimated tax" means the amount of tax which a taxpayer estimates as being imposed by Article 2 (§ 58.1-2620 et seq.) of this chapter for the tax year as measured by the gross receipts received in the taxable year.

"Freight car company" includes every car trust, mercantile or other company or person not domiciled in this Commonwealth owning stock cars, furniture cars, fruit cars, tank cars or other similar cars. Such term shall not include a company operating a line as a railroad.

"Gross receipts" means the total of all revenue derived in the Commonwealth, including but not limited to, (i) receipts from the sale or resale of goods held in inventory, (ii) net benefit to an entity that is exempt from federal income tax pursuant to § 501 (c) of the Internal Revenue Code from any lease-leaseback transaction whereby the lessor leases back such property from the lessee following, and as a part of a transaction related to, such lease, and (iii) income from the provision or performance of a service or the performance of incidental operations not necessarily associated with the particular service performed, without deductions for expenses or other adjustments. Such term shall not, however, include (i) interest, (ii) dividends, (iii) investment income or, (iv) receipts from the sale of real property or other assets except goods held in inventory of goods held [for sale or resale for sale or resale], or (v) receipts from any lease-leaseback transaction, except the net benefit to an entity that is exempt from federal income tax pursuant to § 501 (c) of the Internal Revenue Code from the lease-leaseback transaction, whereby the lessor leases back such property from the lessee following, and as a part of a transaction related to, such lease.

"Net benefit" means the amount by which (i) the revenue payable to the lessor as a result of a lease-leaseback of real property or other assets exceeds (ii) the present value of all revenue payable to the lessee, or to any defeasance fund holder, escrow agent, or other person holding funds intended for payment to the lessee, pursuant to any arrangement by which the lessee leases such property back to the lessor, including the cost at which the lessor may elect to cancel the underlying lease.

"Pipeline distribution company" means a corporation, other than a pipeline transmission company, which transmits, by means of a pipeline, natural gas, manufactured gas or crude petroleum and the

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60 products or by-products thereof to a purchaser for purposes of furnishing heat or light.

61 "Pipeline transmission company" means a corporation authorized to transmit natural gas,
62 manufactured gas or crude petroleum and the products or by-products thereof in the public service by
63 means of a pipeline or pipelines from one point to another when such gas or petroleum is not for sale to
64 an ultimate consumer for purposes of furnishing heat or light.

65 "Tax Commissioner" means the chief executive officer of the Department of Taxation or his
66 designee.

67 "Tax year" means the twelve-month period beginning on January 1 and ending on December 31 of
68 the same calendar year, such year also being the tax assessment year or the year in which the tax levied
69 under this chapter shall be paid.

70 "Taxable year" means the calendar year preceding the tax year, upon which the gross receipts are
71 computed as a basis for the payment of the tax levied pursuant to this chapter.

72 "Telegraph company" means a corporation or person operating the apparatus necessary to
73 communicate by telegraph.

74 "Telephone company" means a person holding a certificate of convenience and necessity granted by
75 the State Corporation Commission authorizing local exchange telephone service, interexchange service,
76 radio common carrier system or a cellular mobile radio communications system; or a person authorized
77 by the Federal Communications Commission to provide commercial mobile service as defined in
78 § 332(d) (1) of the Communications Act of 1934, as amended, where such service includes cellular
79 mobile radio communications services or personal communications services; or a person holding a
80 certificate issued pursuant to § 214 of the Communications Act of 1934, as amended, authorizing
81 telephone service.

82 For purposes of this chapter the terms "license tax" and "franchise tax" shall be synonymous.

83 **2. That the provisions of this act shall be effective for tax years beginning on and after January 1,**
84 **1997.**

85 **3. That an emergency exists and this act is in force from its passage.**