

1 A BILL to amend and reenact §§ 58.1-401, 58.1-440, 58.1-2600, 58.1-2601, 58.1-2602, 58.1-
 2 2603, 58.1-2604, 58.1-2606, 58.1-2609, 58.1-2610, 58.1-2611, 58.1-2626, 58.1-
 3 2626.1, 58.1-2627, 58.1-2628, 58.1-2633, 58.1-2660, 58.1-2662.2, 58.1-2682, 58.1-
 4 2690, 58.1-3731 and 58.1-3814 of the Code of Virginia and to amend the Code of
 5 Virginia by adding sections numbered 58.1-400.2 and 58.1-420.1, a chapter numbered
 6 29 consisting of sections numbered 58.1-2900 and 58.1-2901, and a section numbered
 7 58.1-3508.1, relating to electric utility taxation.

8 **Be it enacted by the General Assembly of Virginia:**

9 **1. That §§ 58.1-401, 58.1-440, 58.1-2600, 58.1-2601, 58.1-2602, 58.1-2603, 58.1-2604,**
 10 **58.1-2606, 58.1-2609, 58.1-2610, 58.1-2611, 58.1-2626, 58.1-2626.1, 58.1-2627, 58.1-2628,**
 11 **58.1-2633, 58.1-2660, 58.1-2662.2, 58.1-2682, 58.1-2690, 58.1-3731 and 58.1-3814 of the**
 12 **Code of Virginia are amended and reenacted, and that the Code of Virginia is amended**
 13 **by adding sections numbered 58.1-400.2 and 58.1-420.1, a chapter numbered 29**
 14 **consisting of sections numbered 58.1-2900 and 58.1-2901, and a section numbered**
 15 **58.1-3508.1 as follows:**

16 §58.1-400.2. Taxation of wholesale electric suppliers.

17 A. Any wholesale electric supplier that is subject to income tax pursuant to the Internal
 18 Revenue Code of 1986, as amended, shall be subject to the tax levied pursuant to 58.1-400 et
 19 seq.

20 B. Any wholesale electric supplier that operates as a generation and transmission
 21 cooperative and is exempt from income tax pursuant to section 501 (c)(12) shall be subject to
 22 tax at the tax rate set forth in section 58.1-400 on all income derived from nonmember sales
 23 and unrelated business activities.

24 C. The following words and terms, when used in this section, shall have the following
 25 meanings:

1 1. “Nonmember sales” means all sales other than sales to the generation and
2 transmission cooperative’s member distribution cooperatives to be used for resale to their
3 ultimate retail consumers.

4 2. “Wholesale electric supplier” means any corporation, cooperative, partnership or
5 other business entity providing wholesale electric service.

6 3. “Unrelated business activity” means any trade or business activity that is not
7 substantially related to the exercise or performance of the generation and transmission
8 cooperative’s Internal Revenue Code § 501(c)(12) purpose. Income from investments shall
9 not be included as income from an unrelated business activity.

10 The Department of Taxation shall adopt regulations to carry out the intent of this
11 section.

12 § 58.1-401. Exemptions and exclusions.

13 No tax levied pursuant to §§ 58.1-400 ~~or § 58.1-400.1~~ or §58.1-400.2 is imposed on:

14 1. A public service corporation to the extent such corporation is subject to the license
15 tax on gross receipts contained in Chapter 26 (§ 58.1-2600 et seq.) of this title;

16 2. Insurance companies to the extent such company is subject to the license tax on
17 gross premiums under Chapter 25 (§ 58.1-2500 et seq.) of this title and reciprocal or
18 interinsurance exchanges which pay a premium tax to the Commonwealth as provided by law;

19 3. State and national banks, banking associations and trust companies to the extent
20 such companies are subject to the bank franchise tax on net capital;

21 3a. Credit unions organized and conducted as such under the laws of the
22 Commonwealth or under the laws of the United States;

23 4. Electing small business corporations (S corporations);

24 5. Religious, educational, benevolent and other corporations not organized or
25 conducted for pecuniary profit which by reason of their purposes or activities are exempt from
26 income tax under the laws of the United States, except those organizations which have
27 unrelated business income or other taxable income under such laws;

1 6. Telephone companies chartered in the Commonwealth which are exclusively a local
2 mutual association and are not designated to accumulate profits for the benefit of, or to pay
3 dividends to, the stockholders or members thereof;

4 7. A corporation that has contracted with a commercial printer for printing and that is
5 not otherwise taxable shall not become taxable by reason of: (i) the ownership or leasing by
6 that corporation of tangible personal property located at the Virginia premises of the
7 commercial printer and used solely in connection with the printing contract with such person;
8 (ii) the sale by that corporation at another location of property of any kind printed at and
9 shipped or distributed from the Virginia premises of the commercial printer; (iii) the activities in
10 connection with the printing contract with such person of any kind performed by or on behalf of
11 that corporation at the Virginia premises of the commercial printer; and (iv) the activities in
12 connection with the printing contract with such person performed by the commercial printer for
13 or on behalf of that corporation; and

14 8. Foreign sales corporations (FSC) and any income attributable to an FSC under the
15 rules relating to the taxation of an FSC in Part III, Subpart C of the Internal Revenue Code (§
16 921 et seq.) and the regulations thereunder.

17 § 58.1-420.1. Electric power suppliers; apportionment.

18 In the case of a corporation operating as an electric power supplier, the property,
19 payroll and sales factors shall be computed in the manner set forth in §§ 58.1-409, 58.1-412
20 and 58.1-414, respectively, modified as follows:

21 1. The numerator of the property factor shall include all property in the Commonwealth
22 except that property used in connection with the transmission or distribution of electricity.

23 2. The numerator of the payroll factor shall include all payroll in the Commonwealth
24 except the payroll incurred in connection with the transmission or distribution of electricity.

25 3. The numerator of the sales factor shall include all sales in the Commonwealth
26 except the sales of transmission or distribution services whether charged on a bundled or
27 unbundled basis.

1 Property shall be excluded from the numerator of the property factor pursuant to
2 paragraph 1 only if the property is predominantly used in the transmission or distribution of
3 electricity. Property, payroll and sales shall be included in the denominator of the property
4 factor, the payroll factor and the sales factor, respectively, even if used to produce income of
5 the type that is exempt under section 58.1-401.1a.

6 § 58.1-440. Accounting.

7 A. A corporate taxpayer's taxable year under this chapter shall be the same as his
8 taxable year for federal income tax purposes.

9 B. If a taxpayer's taxable year is changed for federal income tax purposes, his taxable
10 year for purposes of this chapter shall be similarly changed. If a taxable year of less than
11 twelve months results from a change of taxable year, the Virginia taxable income shall be
12 prorated under regulations of the Department.

13 C. A taxpayer's method of accounting under this chapter shall be the same as his
14 method of accounting for federal income tax purposes. In the absence of any method of
15 accounting for federal income tax purposes, Virginia taxable income shall be computed under
16 such method as in the opinion of the Tax Commissioner clearly reflects income.

17 D. If a taxpayer's method of accounting is changed for federal income tax purposes, his
18 method of accounting for purposes of this chapter shall be similarly changed. If a taxpayer's
19 method of accounting is changed, other than from an accrual to an installment method, any
20 additional tax which results from adjustments determined to be necessary solely by reason of
21 the change shall not be greater than if such adjustments were ratably allocated and included
22 for the taxable year of the change and the preceding taxable years, not in excess of two,
23 during which the taxpayer used the method of accounting from which the change is made. If a
24 taxpayer's method of accounting is changed from an accrual to an installment method, any
25 additional tax for the year of such change of method and for any subsequent year which is
26 attributable to the receipt of installment payments properly accrued in a prior year, shall be

1 reduced by the portion of tax for any prior taxable year attributable to the accrual of such
2 installment payments, in accordance with regulations of the Department.

3 E. In computing a taxpayer's Virginia taxable income for any taxable year under a
4 method of accounting different from the method under which the taxpayer's Virginia taxable
5 income was computed, there shall be taken into account those adjustments which are
6 determined, under regulations prescribed by the Department of Taxation, to be necessary
7 solely by reason of change in order to prevent amounts from being duplicated or omitted.

8 F. Notwithstanding any of the other provisions of this section, any accounting
9 adjustments made for federal income tax purposes for any taxable year shall be applied in
10 computing the taxpayer's taxable income for such year.

11 § 58.1-2600. Definitions.

12 A. As used in this chapter:

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

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

1 "Commission" means the State Corporation Commission which is hereby designated
2 pursuant to Article X, Section 2 of the Constitution of Virginia as the central state agency
3 responsible for the assessment of the real and personal property of all public service
4 corporations, except those public service corporations for which the Department of Taxation is
5 so designated, upon which the Commonwealth levies a license tax measured by the gross
6 receipts of such corporations. The State Corporation Commission shall also assess the
7 property of each telephone or telegraph company, every corporation in the Commonwealth in
8 the business of furnishing heat, light and power by means of electricity, and each wholesale
9 electric supplier, as provided by this chapter.

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

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

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

20 "Gross receipts" means the total of all revenue derived in the Commonwealth,
21 including but not limited to, income from the provision or performance of a service or the
22 performance of incidental operations not necessarily associated with the particular service
23 performed, without deductions for expenses or other adjustments. Such term shall not,
24 however, include interest, dividends, investment income or receipts from the sale of real
25 property or other assets except inventory of goods held for sale or resale.

26 "Pipeline distribution company" means a corporation, other than a pipeline
27 transmission company, which transmits, by means of a pipeline, natural gas, manufactured

1 gas or crude petroleum and the products or by-products thereof to a purchaser for purposes of
2 furnishing heat or light.

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

7 "Tax Commissioner" means the chief executive officer of the Department of Taxation or
8 his designee.

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

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

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

16 "Telephone company" means a person holding a certificate of convenience and
17 necessity granted by the State Corporation Commission authorizing telephone service; or a
18 person authorized by the Federal Communications Commission to provide commercial mobile
19 service as defined in § 332(d) (1) of the Communications Act of 1934, as amended, where
20 such service includes cellular mobile radio communications services or broadband personal
21 communications services; or a person holding a certificate issued pursuant to § 214 of the
22 Communications Act of 1934, as amended, authorizing domestic telephone service and
23 belonging to an affiliated group including a person holding a certificate of convenience and
24 necessity granted by the State Corporation Commission authorizing telephone service. The
25 term "affiliated group" shall have the meaning given in § 58.1-3700.1.

26 "Wholesale electric supplier" means any person owning or operating facilities for the
27 generation of electricity for sales other than to the ultimate retail consumer; except any person

1 owning or operating hydroelectric facilities with a designed generation capacity of less than 25
2 megawatts.

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

5 § 58.1-2601. Boundaries of certain political units to be furnished company, Commission
6 and Department.

7 A. The commissioner of the revenue in each county and city in which a public service
8 corporation or other person with property assessed pursuant to this chapter does business or
9 owns property shall furnish, on or before January 1 in each year, to each such corporation or
10 person, the boundaries of each city and the magisterial district of the county and of each town
11 therein in which any part of the property of such corporation or person is situated. A copy of
12 such boundaries shall also be forwarded to the clerk of the Commission and the Tax
13 Commissioner.

14 B. Whenever any commissioner of the revenue shall fail to furnish to such corporation
15 or other person, the clerk of the Commission and the Tax Commissioner, such boundaries
16 required in subsection A, the clerk of the Commission and the Tax Commissioner shall notify
17 the judge of the circuit court of the county and city of such commissioner of the revenue and
18 the judge shall instruct the grand jury at the next term of the circuit court to ascertain whether
19 such boundaries have been furnished as required in this section. Should the grand jury
20 ascertain that such boundaries have not been furnished, they shall find an indictment against
21 the commissioner of the revenue. Upon conviction thereof, such commissioner of the revenue
22 shall be guilty of a Class 4 misdemeanor, each magisterial district and town boundary so
23 omitted being a separate offense.

24 C. Notwithstanding the provisions of subsection A, whenever the boundaries have once
25 been furnished to any public service ~~company~~ corporation or other person with property
26 assessed pursuant to this chapter, the Commission and the Tax Commissioner, the

1 commissioner of the revenue shall thereafter not be required to furnish the boundaries except
2 as shall be necessary to show subsequent changes in such boundaries.

3 § 58.1-2602. Local authorities to examine assessments and inform Department or
4 Commission whether correct.

5 The governing body of each county, city and town, receiving a copy of any assessment
6 made by the Commission or the Department against property of a public service corporation
7 or other person with property assessed pursuant to this chapter located in such county, city or
8 town, shall forthwith review such assessments and determine whether they are accurate and
9 notify the clerk of the Commission or the Department of any corrections thereto. Such
10 governing bodies at their own expense may, when there is reason to doubt the correctness of
11 the assessed length of any line, retain any surveyor in order to verify the assessment of the
12 Commission or the Department.

13 § 58.1-2603. Local levies to be extended by commissioners of revenue; copies; forms.

14 All county, district and city levies on the property of public service corporations or other
15 persons with property assessed pursuant to this chapter shall be extended by the
16 commissioner of the revenue for the county or city and a copy of such extensions shall be
17 certified and transmitted by the commissioner of the revenue to the treasurer of his county or
18 city for collection. In each city which has a collector of city taxes, such copy shall be certified
19 and transmitted to such collector of city taxes. Forms for use by the commissioners of the
20 revenue under this section shall be prescribed and furnished by the Department.

21 § 58.1-2604. ~~Increase in assessed~~Assessed valuation.

22 A. Except as otherwise provided in § ~~58.1-2608~~, ~~any increase in~~58.1-2707 the
23 assessed valuation of the property of any public service corporation ~~property~~or other person
24 with property assessed pursuant to this chapter in any taxing district shall be made by
25 application of the local assessment ratio prevailing in such taxing district for other real estate
26 as most recently determined and published by the Department of Taxation. ~~On January 1,~~
27 ~~1967, one twentieth, and on each subsequent January 1 for nineteen years an additional one-~~

1 ~~twentieth, of the assessed valuation on January 1, 1966, (reduced by forty percent of the~~
2 ~~value of the amount, if any, by which total retirements since January 1, 1966, exceed total~~
3 ~~additions since that date), shall be assessed by application of the local assessment ratio as~~
4 ~~provided above, and the remainder shall continue to be assessed by application of the forty~~
5 ~~percent assessment ratio as heretofore administered. Thereafter the whole shall be assessed~~
6 ~~by application of the local assessment ratio as provided above.~~

7 ~~B. All public service corporation property in the process of equalization over a twenty-~~
8 ~~year period as provided in subsection A is hereby defined as a separate item of taxation and~~
9 ~~shall be identified as a separate category of property for local taxation. Such property in the~~
10 ~~process of equalization shall, for such period as provided for in subsection A, continue to be~~
11 ~~assessed at forty percent of the fair market value.~~

12 ~~C. On request of any local taxing district in connection with any reassessment of~~
13 ~~property, representatives of the State Corporation Commission and the Department shall~~
14 ~~consult with representatives of the district with regard to ascertainment and equalization of~~
15 ~~values to help assure uniformity of appraisals and assessments in accordance with the~~
16 ~~provisions of this section.~~

17 ~~DB. The Department of Taxation shall furnish to each county, city or town in which athe~~
18 ~~property of public service corporation's property/corporations or other persons with property~~
19 ~~assessed pursuant to this chapter represents twenty-five percent or more of the total~~
20 ~~assessed value of real estate in such county, city or town, the local assessment ratio to be~~
21 ~~applied within that county, city or town no later than April 1 of the year for which it is~~
22 ~~applicable.~~

23 ~~EC. The Department of Taxation shall furnish to each county, city or town, by April 1 of~~
24 ~~each year, a description of the manner in which the local assessment ratio applicable to the~~
25 ~~county, city or town for the year was determined. The description furnished by the~~
26 ~~Department shall include, but not be limited to, a description of the parcels used, the time~~
27 ~~period from which sales transactions were drawn, the classification applied by the Department~~

1 to any parcel or transaction, and any mathematical formulas used in calculating the local
2 assessment ratio.

3 § 58.1-2606. Local taxation of real and tangible personal property of public service
4 corporations and other persons with property assessed pursuant to this chapter.

5 A. Notwithstanding the provisions of this section and §§ 58.1-2607 and 58.1-2690, all
6 local taxes on the real estate and tangible personal property of public service corporations
7 and other persons with property assessed pursuant to this chapter referred to in such sections
8 shall be at the real estate rate applicable in the respective locality. ~~Property, however, which
9 has not been equalized as provided for in § 58.1-2604 shall continue to be assessed at forty
10 percent of fair market value and taxed at the nominal rate applicable to public service
11 corporation real property for the taxable year immediately preceding the year such locality
12 assesses as provided in § 58.1-3201. If the resulting effective tax rate for such unequalized
13 public service corporation property in any county, city or town is less than the effective tax rate
14 applicable to other real property therein, the locality shall adjust such nominal rate to equalize
15 the effective tax rate on such public service corporation property with the effective tax rate
16 applicable to other real property.~~

17 ~~B. The assessed valuation of any class of property taxed as tangible personal property
18 by any county, city or town before January 1, 1966, may continue to be taxed at rates no
19 higher than those levied on other tangible personal property on January 1, 1966. On January
20 1, 1967, one-twentieth, and on each subsequent January 1 for nineteen years an additional
21 one-twentieth, of the assessed valuation of such tangible personal property on January 1,
22 1966, shall be taxed at the real estate rate and the remainder may continue to be taxed at a
23 rate no higher than the rate levied on tangible personal property on January 1, 1966. After
24 December 31, 1985, the whole shall be taxed at the full local real estate tax rate.~~

25 CB. Notwithstanding any of the foregoing provisions, all automobiles and trucks of such
26 corporations and other persons shall be taxed at the same rate or rates applicable to other
27 automobiles and trucks in the respective locality.

1 C. Notwithstanding any of the foregoing provisions, generating equipment reported to
2 the Commission and defined as a separate item of taxation for such purpose and identified as
3 a separate class of property for local taxation as provided by § 58.1-2633 B may be taxed at
4 the rate or rates adopted by a locality pursuant to § 58.1-3508.2.

5 § 58.1-2609. Local taxation of land and nonutility and noncarrier improvements of
6 public service corporations.

7 Whenever land and noncarrier and nonutility improvements of public service
8 corporations and other persons with property assessed pursuant to this chapter are appraised
9 for local taxation by comparison to the appraised values placed by local assessors on similar
10 properties in the taxing district, they shall be assessed by application of the local stated ratio
11 of assessments to appraisals, and taxed at the rate applicable to other real property in the
12 taxing district. Such property is hereby defined as a separate item of taxation for such purpose
13 and shall be identified as a separate class of property for local taxation.

14 § 58.1-2610. Penalty for failure to file timely report.

15 Any ~~taxpayer~~person failing to make a report required under the provisions of this
16 chapter within the time prescribed shall be liable to a penalty of \$100 for each day such
17 taxpayer is late in making such report. The State Corporation Commission or Tax
18 Commissioner, as the case may be, may waive all or a part of such penalty for good cause.

19 § 58.1-2611. Penalty for failure to pay tax.

20 A. Any ~~company or individual~~person failing to pay the tax levied pursuant to this
21 chapter into the state treasury within the time prescribed by law shall incur a penalty thereon
22 of ten percent, which shall be added to the amount of the tax due.

23 B. Notwithstanding the provisions of subsection A, such penalty shall not accrue in any
24 case unless the State Corporation Commission or the Department, as the case may be, mails
25 the ~~corporation~~person a certified copy of the assessment on or before May 15 preceding. In
26 the event such copy is not mailed on or before May 15 preceding, the penalty for nonpayment

1 in time shall not accrue until the close of the fifteenth day next following the mailing of such
2 certified copy of the assessment.

3 § 58.1-2626. Annual state license tax on companies furnishing water, heat, light or
4 power.

5 A. Every corporation doing in the Commonwealth the business of furnishing water,
6 heat, light or power, whether by means of ~~electricity, gas or steam~~, except a pipeline
7 transmission company taxed pursuant to § 58.1-2627.1, shall, for the privilege of doing
8 business within the Commonwealth, pay to the Commonwealth for each tax year an annual
9 license tax equal to ~~one and one-eighth~~ two percent of its gross receipts, actually received,
10 from all sources ~~up to \$100,000 of such gross receipts and two and three-tenths percent of all~~
11 ~~such gross receipts in excess of \$100,000. For the tax year 1989 and thereafter the license~~
12 ~~tax shall be an amount equal to two percent.~~

13 B. The state license tax provided in subsection A shall be (i) in lieu of all other state
14 license or franchise taxes on such corporation, and (ii) in lieu of any tax upon the shares of
15 stock issued by it.

16 C. Nothing herein contained shall exempt such corporation from motor vehicle license
17 taxes, motor vehicle fuel taxes, fees required by § 13.1-775.1 or from assessments for street
18 and other local improvements, which shall be authorized by law, nor from the county, city,
19 town, district or road levies.

20 D. Nothing herein contained shall annul or interfere with any contract or agreement by
21 ordinance between such corporations and cities and towns as to compensation for the use of
22 the streets or alleys by such corporations.

23 § 58.1-2626.1. The Virginia Coal Employment and Production Incentive Tax Credit.

24 A. For the tax years beginning on and after January 1, 1988, every corporation in the
25 Commonwealth doing the business of furnishing water, heat, light or power to the
26 Commonwealth or its citizens, whether by means of electricity, gas or steam shall be allowed
27 a credit against the tax imposed by § 58.1-2626 in the following amount: one dollar per ton for

1 each ton of coal contracted for purchase by such corporation after July 1, 1986, provided such
2 coal was mined in Virginia as certified by the producer of such coal. This credit shall be
3 prorated equally against the corporation's estimated payments made in September and
4 December and the final payment.

5 B. For tax years beginning on and after January 1, 1989, every corporation in the
6 Commonwealth doing the business of furnishing water, heat, light or power to the
7 Commonwealth or its citizens, whether by means of electricity, gas or steam shall be allowed
8 additional credit against the tax imposed by § 58.1-2626 in the following amount: one dollar
9 per ton for each ton of coal purchased by such corporation, provided such coal was mined in
10 Virginia as certified by such seller. The credit shall be prorated equally against the
11 corporation's estimated payments made in September and December and the final payment.

12 C. For tax years beginning on and after January 1, 1991, every corporation in the
13 Commonwealth doing the business of furnishing water, heat, light or power to the
14 Commonwealth or its citizens, whether by means of electricity, gas or steam, shall be allowed
15 additional credit against the tax imposed by § 58.1-2626-in the following amount: one dollar
16 per ton for each ton of coal purchased by such corporation, provided such coal was mined in
17 Virginia as certified by such seller. The credit shall be prorated equally against the
18 corporation's estimated payments made in September and December and the final payment.

19 D. For tax years beginning on and after January 1, 2000, every corporation in the
20 Commonwealth doing the business of furnishing water, heat, light or power to the
21 Commonwealth or its citizens, whether by means of electricity, gas or steam, shall be allowed
22 additional credit against the tax imposed by §58.1-400.2A or § 58.1-2626 in the following
23 amount: one dollar per ton for each ton of coal purchased by such corporation, provided such
24 coal was mined in Virginia as certified by such seller. The credit shall be prorated equally
25 against the corporation's estimated payments made in September and December and the final
26 payment.

27 § 58.1-2627. Exemptions.

1 A. ~~There shall be excluded from the gross receipts of any corporation engaged in the~~
2 ~~business of furnishing heat, light and power by means of electricity, receipts from interstate~~
3 ~~business.~~There shall be deducted from the gross receipts of any corporation engaged in the
4 business of furnishing heat, light or power by means of gas revenues billed on behalf of
5 another person to the extent such revenues are later paid over to or settled with that person.

6 B. ~~There shall be deducted from the gross receipts of any power supply cooperative,~~
7 ~~defined in § 56-231.1, which purchases electricity for the sole purpose of resale to other~~
8 ~~cooperatives, the amount paid in such taxable period by such cooperative to purchase~~
9 ~~electricity from a vendor of electricity which is subject to the tax imposed by this chapter.~~

10 C. ~~There shall be deducted from the gross receipts of any electric cooperative, as~~
11 ~~defined in § 56-209, which is engaged in sales to ultimate consumers, and every corporation~~
12 ~~engaged in the business of furnishing heat, light and power by means of electricity the amount~~
13 ~~so paid in such taxable period by such cooperative or corporation to purchase electricity from~~
14 ~~a vendor subject to the tax imposed by this chapter.~~

15 D. ~~Whenever the total gross receipts of any corporation engaged in the business of~~
16 ~~furnishing heat, light or power by means of electricity or gas includes receipts from another~~
17 ~~corporation which is a member of an affiliated group of corporations and which is also subject~~
18 ~~to the tax imposed by § 58.1-2626, such receipts from such other corporation shall be~~
19 ~~deducted from such total gross receipts. The term "affiliated group" shall have the meaning~~
20 ~~given in § 58.1-3703.~~

21 E. ~~Effective for purchases on and after July 1, 1994, there shall be deducted from the~~
22 ~~gross receipts of any electric cooperative, as defined in § 56-209, which is engaged in sales~~
23 ~~to ultimate consumers, the amount paid in such taxable period by such cooperative to~~
24 ~~purchase, for the purpose of resale within the Commonwealth, electricity from a federal entity~~
25 ~~which made payments during such taxable period to the Commonwealth in lieu of taxes in~~
26 ~~accordance with a federal law requiring such payments to be calculated on the basis of such~~
27 ~~federal entity's gross proceeds from the sale of electricity.~~

1 § 58.1-2628. Annual report.

2 A. Each telegraph company and telephone company shall report annually, on April 15,
3 to the Commission all real and tangible personal property of every description in the
4 Commonwealth, owned, operated or used by it as of January 1 preceding, showing
5 particularly the county, city, town or magisterial district wherein such property is located.

6 The report shall also show the total gross receipts for the twelve months ending
7 December 31 next preceding and the interstate revenue, if any, attributable to the
8 Commonwealth. Such revenue shall include all interstate revenue from business originating
9 and terminating within the Commonwealth and a proportion of interstate revenue from all
10 interstate business passing through, into or out of the Commonwealth.

11 B. Every corporation doing in the Commonwealth the business of furnishing water,
12 heat, light and power, whether by means of ~~electricity~~, gas or steam, shall report annually, on
13 April 15, to the Commission all real and tangible personal property of every description in the
14 Commonwealth, belonging to it as of January 1 preceding, showing particularly, as to property
15 owned by it, the county, city, town or magisterial district wherein such property is located. The
16 report shall also show the total gross receipts for the twelve months ending December 31 next
17 preceding.

18 C. Every corporation in the Commonwealth in the business of furnishing heat, light and
19 power by means of electricity shall report annually, on April 15, to the Commission all real and
20 tangible personal property of every description in the Commonwealth, belonging to such
21 corporation as of the preceding January 1, showing particularly the county, city, town or
22 magisterial district in which such property is located. The report shall also show the total
23 gross receipts for the twelve months ending the preceding December 31.

24 D. Every wholesale electric supplier shall report annually, on April 15, to the
25 Commission all real and tangible personal property owned in the Commonwealth and used
26 directly for the generation of electricity for sale other than to the ultimate retail consumer. The

1 report shall also show the total gross receipts for the twelve months ending the preceding
2 December 31.

3 CE. Every pipeline transmission company shall report annually, on April 15, to the
4 Department all of its real and tangible personal property of every description as of the
5 beginning of January 1 preceding, showing particularly in what city, town or county and
6 magisterial district therein the property is located.

7 DE. The report required by subsections A and ~~B~~ through E shall be completed on forms
8 prepared and furnished by the Commission. The Commission shall include on such forms
9 such information as the Commission deems necessary for the proper administration of this
10 chapter.

11 EG. The report required by this section shall be certified by the oath of the president or
12 other designated official of the corporation or person.

13 § 58.1-2633. Assessment by Commission.

14 A. The Commission shall assess the value of the reported property subject to local
15 taxation of each telegraph, telephone, water, heat, light and power company and wholesale
16 electric supplier, except a pipeline transmission company taxed pursuant to § 58.1-2627.1,
17 and shall assess the license tax levied hereon if such company is subject to the license tax
18 under this article.

19 B. Generating equipment reported to the Commission pursuant to § 58.1-2606 C is
20 hereby defined as a separate item of taxation for such purpose and shall be identified as a
21 separate class of property for local taxation. In assessing the value of generating equipment,
22 the Commission shall take into account the condition of the property. The term "condition of
23 property" includes, but is not limited to, technological obsolescence of property where
24 technological obsolescence is an appropriate factor for valuing such property. The
25 Commission shall make available to taxpayers on request a reasonable description of its
26 valuation methods.

1 C. Should any such ~~taxpayer~~person fail to make the reports required by this article on
2 or before April 15 of each year, the Commission shall assess the value of the property of such
3 ~~taxpayer~~person, and its gross receipts upon the best and most reliable information that can be
4 obtained by the Commission.

5 GD. In making such assessment, the Commission may require such ~~taxpayer~~person or
6 its officers and employees to appear with such documents and papers as the Commission
7 deems necessary.

8 § 58.1-2660. Special revenue tax; levy.

9 In addition to any other taxes upon the subjects of taxation listed herein, there is hereby
10 levied, subject to the provisions of § 58.1-2664, a special regulatory revenue tax equal to two-
11 tenths of one percent of the gross receipts such person receives from business done within
12 the Commonwealth upon:

13 1. Corporations furnishing water, heat, light or power, either by means of electricity, gas
14 or steam and wholesale electric suppliers;

15 2. Telegraph companies owning and operating a telegraph line apparatus necessary to
16 communicate by telecommunications in the Commonwealth;

17 3. Telephone companies whose gross receipts from business done within the
18 Commonwealth exceed \$50,000 or a company, the majority of stock or other property of which
19 is owned or controlled by another telephone company, whose gross receipts exceed the
20 amount set forth herein;

21 4. The Virginia Pilots' Association;

22 5. Railroads, except those exempt by virtue of federal law from the payment of state
23 taxes, subject to the provisions of § 58.1-2661; and

24 6. Common carriers of passengers by motor vehicle, except urban and suburban bus
25 lines, a majority of whose passengers use the buses for traveling a daily distance of not more
26 than forty miles measured one way between their place of work, school or recreation and their
27 place of abode.

1 § 58.1-2662.2. Gross receipts of ~~companies~~corporations furnishing water, heat, light or
2 power and wholesale electric suppliers.

3 ~~The special regulatory revenue tax on companies furnishing water, heat, light or power~~
4 ~~levied pursuant to § 58.1-2660 shall be based on gross receipts with the exemptions allowed~~
5 ~~under § 58.1-2627-A. There shall be excluded from the gross receipts of any corporation~~
6 ~~engaged in the business of furnishing heat, light and power by means of electricity and any~~
7 ~~wholesale electric supplier receipts from interstate business.~~

8 B. There shall be deducted from the gross receipts of any power supply cooperative,
9 defined in § 56-231.1, which purchases electricity for the sole purpose of resale to other
10 cooperatives, the amount paid in such taxable period by such cooperative to purchase
11 electricity from a vendor of electricity which is subject to the tax imposed by this chapter.

12 C. There shall be deducted from the gross receipts of any electric cooperative, as
13 defined in § 56-209, which is engaged in sales to ultimate consumers, and every corporation
14 engaged in the business of furnishing heat, light and power by means of electricity the amount
15 paid in such taxable period by such cooperative or corporation to purchase electricity from a
16 vendor subject to the tax imposed by this chapter.

17 D. There shall be deducted from the gross receipts of any electric cooperative, as
18 defined in § 56-209, which is engaged in sales to ultimate consumers, the amount paid in
19 such taxable period by such cooperative to purchase, for the purpose of resale within the
20 Commonwealth, electricity from a federal entity which made payments during such taxable
21 period to the Commonwealth in lieu of taxes in accordance with a federal law requiring such
22 payments to be calculated on the basis of such federal entity's gross proceeds from the sale
23 of electricity.

24 § 58.1-2682. District boundaries to be furnished company and Commission.

25 The commissioner of the revenue, or person performing the duties of such officer, of
26 any county set forth in § 58.1-2680 in which a public service corporation or other person with
27 property assessed pursuant to this chapter owns property, shall furnish, in like manner as is

1 provided in this chapter to the Commission, the Department and to each public service
2 corporation or other person with property assessed pursuant to this chapter owning property
3 in such county subject to local taxation, the boundaries of each district in such county in which
4 any local tax is or may be levied.

5 § 58.1-2690. No state or local tax on intangible personal property or money; local levies
6 and license taxes.

7 A. Except as provided in this chapter, there shall be no state or local taxes assessed on
8 the intangible personal property, gross receipts or other such money or income owned by
9 telephone or telegraph companies, railroads, pipeline companies, or corporations furnishing
10 water, heat, light and power by means of ~~electricity,~~ gas or steam.

11 B. On the real estate and tangible personal property of every incorporated telegraph
12 and telephone company owning or operating telegraph or telephone lines in Virginia and of
13 railroads, pipeline companies, or corporations furnishing water, heat, light and power by
14 means of electricity, gas or steam, there shall be local levies at the rates prescribed by § 58.1-
15 2606.

16 C. Notwithstanding the provisions of subsection A, any county, city or town may impose
17 a license tax under § 58.1-3703 upon a corporation owning or operating telegraph or
18 telephone lines in Virginia for the privilege of doing business therein, which shall not exceed
19 one-half of one percent of the gross receipts of such business accruing to such corporation
20 from such business in such county, city or town; however, charges for long distance telephone
21 calls shall not be considered receipts of business in such county, city or town.

22 D. Notwithstanding the provisions of subsection A, any county, city or town may impose
23 an excise tax under § 58.1-3818.3 upon a corporation owning or operating telegraph or
24 telephone lines in Virginia, at a rate that shall not exceed the rate lawfully imposed by § 58.1-
25 3818.3, on such corporation's gross receipts from sales of video programming or access to
26 video programming directly to end-user subscribers who are located within such county, city
27 or town.

CHAPTER 29.

ELECTRIC UTILITY CONSUMPTION TAX.

§ 58.1-2900. Imposition of tax.

A. There is hereby imposed, in addition to the local consumer utility tax of § 58.1-3812 et seq., a tax on the consumers of electricity in the Commonwealth based on kilowatt hours used per month as follows:

<u>kWh per month</u>	<u>Maximum tax rate</u>
<u>0-2,500</u>	<u>\$0.00161/kWh</u>
<u>2,501-50,000</u>	<u>0.00105/kWh</u>
<u>50,001 +</u>	<u>0.00079/kWh</u>

The tax rates herein are in lieu of and replace the state gross receipts tax (§ 58.1-2626), the local license tax (§ 58.1-3731) and the State Corporation Commission special assessment tax (§ 58.1-2660) levied on companies furnishing water, heat, light or power by means of electricity.

The tax on consumers under this section shall not be imposed on consumers served by an electric utility owned or operated by a municipality if such electric utility elects to have an amount equivalent to the tax included as part of the rate it pays for transmission and/or wholesale electric service. The maximum tax rates for such an electric utility shall be adjusted to eliminate the amount of tax that replaces the State Corporation Commission's special assessment tax on utilities. The kilowatt hours used to calculate the rate paid for transmission and /or wholesale electric service shall exclude kilowatt hours for a municipality's own use and kilowatt hours used by counties, divisions or agencies of federal or state governments.

B. The tax authorized by this chapter shall not apply to municipalities' own use and to counties, divisions or agencies of federal and state governments.

§ 58.1-2901. Collection and remittance of tax.

A. The service provider shall collect the tax from the consumer by adding it as a separate charge to the consumer's monthly statement. Until the consumer pays the tax to such provider, the tax shall constitute a debt of the consumer to the Commonwealth. If any

1 consumer refuses to pay the tax, the service provider shall notify the Department. After the
2 consumer pays the tax to the service provider, the taxes collected shall be deemed to be held
3 in trust by such provider until remitted to the Department.

4 B. A service provider shall remit monthly to the Department the amount of tax paid
5 during the preceding month by the service provider's consumers, except for the portion which
6 replaces the local license tax revenues that would have been collected under § 58.1-3731.
7 Such portion shall be remitted to the locality in which the electricity was sold and shall be
8 based on such locality's license fee rate which it imposes in accordance with § 58.1-3731.

9 The amount of tax remitted to each locality shall be based on a ratio, the numerator of
10 which shall equal the tax rate imposed by the locality prior to the enactment of this legislation
11 and the denominator of which shall be the total tax rate, aggregating the two percent state
12 rate, the local rate used in the numerator and the 0.01 percent Commission rate. This ratio
13 shall be multiplied by the total amount of tax revenues collected from the consumers within the
14 locality.

15 C. For purposes of this section, "service provider" means the person who delivers
16 electricity to the consumer.

17 § 58.1-3731. Certain public service corporations; rate limitation.

18 Every county, city or town is hereby authorized to impose a license tax, in addition to
19 any tax levied under Chapter 26 of this title, on (i) telephone and telegraph companies, (ii)
20 water companies and (iii) gas or steam heat, light and power companies at a rate not to
21 exceed one-half of one percent of the gross receipts of such company accruing from sales to
22 the ultimate consumer in such county, city or town. However, in the case of telephone
23 companies, charges for long distance telephone calls shall not be included in gross receipts
24 for purposes of license taxation. After December 31, 1999, the license tax authorized by this
25 section shall not be imposed on companies carrying on the business of furnishing water, heat
26 light or power by means of electricity.

27 § 58.1-3814. Water or heat, light and power companies.

1 A. Any county, city or town may impose a tax on the consumers of the utility service or
2 services provided by any water or heat, light and power company or other corporations
3 coming within the provisions of Chapter 26 (§ 58.1-2600 et seq.), which tax shall not be
4 imposed at a rate in excess of twenty percent of the monthly amount charged to consumers of
5 the utility service and shall not be applicable to any amount so charged in excess of fifteen
6 dollars per month for residential customers. Any city, town or county that on July 1, 1972,
7 imposed a utility consumer tax in excess of limits specified herein may continue to impose
8 such a tax in excess of such limits, but no more.

9 B. Any tax enacted pursuant to the provisions of this section, or any change in a tax or
10 structure already in existence, shall not be effective until sixty days subsequent to written
11 notice by certified mail from the county, city or town imposing such tax or change thereto, to
12 the registered agent of the utility corporation that is required to collect the tax.

13 C. Any county, city or town may impose a tax on the consumers of services provided
14 within its jurisdiction by any electric light and power, water or gas company owned by another
15 municipality; provided, that no county shall be authorized under this section to impose a tax
16 within a municipality on consumers of services provided by an electric light and power, water
17 or gas company owned by that municipality. Any county tax imposed hereunder shall not
18 apply within the limits of any incorporated town located within such county which town
19 imposes a town tax on consumers of utility service or services provided by any corporation
20 coming within the provisions of Chapter 26, provided that such town (i) provides police or fire
21 protection, and water or sewer services, provided that any such town served by a sanitary
22 district or service authority providing water or sewer services or served by the county in which
23 the town is located when such service or services are provided pursuant to an agreement
24 between the town and county shall be deemed to be providing such water and sewer services
25 itself, or (ii) constitutes a special school district and is operated as a special school district
26 under a town school board of three members appointed by the town council.

1 Any county, city or town may provide for an exemption from the tax for any public safety
2 agency as defined in § 58.1-3813.

3 Any city with a population of not less than 27,000 and not more than 28,500 may
4 provide an exemption from the tax for any church or religious body entitled to an exemption
5 pursuant to Article 4 (§ 58.1-3650 et seq.) of Chapter 36.

6 Any municipality required to collect a tax imposed under authority of this section for
7 another city or county or town shall be entitled to a reasonable fee for such collection.

8 D. In a consolidated county wherein a tier-city exists, any county tax imposed
9 hereunder shall apply within the limits of any tier-city located in such county, as may be
10 provided in the agreement or plan of consolidation, and such tier-city may impose a tier-city
11 tax on the same consumers of utility service or services, provided that the combined county
12 and tier-city rates do not exceed the maximum permitted by state law.

13 E. The tax authorized by this section shall not apply to utility sales of products used as
14 motor vehicle fuels.

15 F. For taxable years beginning on and after January 1, 2000, any tax imposed by a
16 county, city or town on consumers of electricity under this section shall be based on kilowatt
17 hours used per month. The tax shall be collected and remitted by the service provider, as
18 defined in § 58.1-2901 C.

19 § 58.1-3508.2. Separate classification of machinery and tools used in the wholesale
20 generation of electricity.

21 Machinery and tools used in the wholesale generation of electricity shall constitute a
22 classification for local taxation separate from other classifications of machinery and tools as
23 defined in § 58.1-3507. The governing board of any locality may levy a tax on such
24 classification of property at a different rate from the tax levied on other machinery and tools.
25 The rate of tax and the rate of assessment shall not exceed that applicable generally to
26 machinery and tools.

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