

**SENATE BILL NO. 619**

1 A BILL to amend and reenact §§ 58.1-2626, 58.1-2627, 58.1-2628, 58.1-2633, 58.1-2660,  
2 58.1-2690 and 58.1-3731 of the Code of Virginia and to amend the Code of Virginia by  
3 adding to Title 58.1 a chapter numbered 29 consisting of sections numbered 58.1-2900  
4 and 58.1-2901, relating to electric utility taxation.

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

6 **1. That §§ 58.1-2626, 58.1-2627, 58.1-2628, 58.1-2633, 58.1-2660, 58.1-2690 and 58.1-**  
7 **3731 of the Code of Virginia are amended and reenacted, and that the Code of Virginia**  
8 **is amended by adding to Title 58.1 a chapter numbered 29 consisting of sections**  
9 **numbered 58.1-2900 and 58.1-2901, as follows:**

10 § 58.1-2626. Annual state license tax on companies furnishing water, heat, light or  
11 power.

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

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21 **NOTE: BY DELETING THE TERM "ELECTRICITY" FROM THIS SECTION,**  
22 **ELECTRIC UTILITY CORPORATIONS AND COOPERATIVES WILL NO LONGER BE**  
23 **SUBJECT TO THE GROSS RECEIPTS TAX.**

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

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

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

11 § 58.1-2627. ~~Exemptions~~Receipts from a member of an affiliated group.

12 ~~A. There shall be excluded from the gross receipts of any corporation engaged in the~~  
13 ~~business of furnishing heat, light and power by means of electricity, receipts from interstate~~  
14 ~~business.~~

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

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

24 ~~D. Whenever the total gross receipts of any corporation engaged in the business of~~  
25 ~~furnishing heat, light or power by means of electricity or gas includes receipts from another~~  
26 ~~corporation which is a member of an affiliated group of corporations and which is also subject~~  
27 ~~to the tax imposed by § 58.1-2626, such receipts from such other corporation shall be~~

1 deducted from such total gross receipts. The term "affiliated group" shall have the meaning  
2 given in § 58.1-3703.

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

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11 **NOTE: BECAUSE ELECTRIC UTILITY CORPORATIONS AND COOPERATIVES**  
12 **ARE ELIMINATED FROM PAYING THE GROSS RECEIPTS TAX IN § 58.1-2626, THE**  
13 **DELETED LANGUAGE IN THIS SECTON IS NO LONGER NEEDED.**

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15 § 58.1-2628. Annual report.

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

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

25 B. Every corporation doing in the Commonwealth the business of furnishing water,  
26 heat, light and power, whether by means of electricity, gas or steam, shall report annually, on  
27 April 15, to the Commission all real and tangible personal property of every description in the

1 Commonwealth, belonging to it as of January 1 preceding, showing particularly, as to property  
2 owned by it, the county, city, town or magisterial district wherein such property is located. The  
3 report shall also show the total gross receipts *of such corporations furnishing water, heat, light*  
4 *and power by means of gas or steam* for the twelve months ending December 31 next  
5 preceding.

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7 **NOTE: BECAUSE ELECTRIC UTILITY CORPORATIONS AND COOPERATIVES**  
8 **WILL NO LONGER BE SUBJECT TO THE GROSS RECEIPTS TAX, THE NEW LANGUAGE**  
9 **MAKES IT CLEAR THAT ONLY THOSE UTILITY CORPORATIONS SUBJECT TO SUCH**  
10 **TAX WILL INCLUDE THEIR TOTAL GROSS RECEIPTS IN THE ANNUAL REPORT**  
11 **REQUIRED BY THIS SECTION.**

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

17 D. The report required by subsections A and B shall be completed on forms prepared  
18 and furnished by the Commission. The Commission shall include on such forms such  
19 information as the Commission deems necessary for the proper administration of this chapter.

20 E. The report required by this section shall be certified by the oath of the president or  
21 other designated official of the corporation.

22 § 58.1-2633. Assessment by Commission.

23 A. The Commission shall assess the value of the property subject to local taxation of  
24 each telegraph, telephone, water, heat, light and power company, except a pipeline  
25 transmission company taxed pursuant to § 58.1-2627.1, and shall assess the license tax  
26 levied hereon if such company is subject to the license tax under this article.

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

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**6 NOTE: THE "WHEN APPLICABLE" LANGUAGE INDICATES THAT THE STATE**  
**7 CORPORATION COMMISSION SHALL ONLY ASSESS THE GROSS RECEIPTS TAX ON**  
**8 THOSE UTILITY CORPORATIONS SUBJECT TO SUCH TAX.**

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10 C. In making such assessment, the Commission may require such taxpayer or its  
11 officers and employees to appear with such documents and papers as the Commission deems  
12 necessary.

13 § 58.1-2660. Special revenue tax; levy.

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

18 1. Corporations furnishing water, heat, light or power, either by means of ~~electricity, gas~~  
19 or steam;

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**21 NOTE: EXEMPTS ELECTRIC UTILITY CORPORTIONS AND COOPERATIVES**  
**22 FROM THE SPECIAL REGULATORY REVENUE TAX.**

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

26 3. Telephone companies whose gross receipts from business done within the  
27 Commonwealth exceed \$50,000 or a company, the majority of stock or other property of which

1 is owned or controlled by another telephone company, whose gross receipts exceed the  
2 amount set forth herein;

3 4. The Virginia Pilots' Association;

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

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

10 § 58.1-2690. No state or local tax on intangible personal property or money; local levies  
11 and license taxes.

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

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17 **NOTE: BY DELETING THE TERM "ELECTRICITY", ELECTRIC UTILITY**  
18 **CORPORATIONS AND COOPERATIVES MAY NOW HAVE THEIR INTANGIBLE**  
19 **PERSONAL PROPERTY SUBJECT TO TAXATION. (NOT SURE WE WANT THIS**  
20 **SECTION IN HERE OR THAT IT IS NECESSARY TO YOUR GOALS)**

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22 B. On the real estate and tangible personal property of every incorporated telegraph  
23 and telephone company owning or operating telegraph or telephone lines in Virginia and of  
24 railroads, pipeline companies, or corporations furnishing water, heat, light and power by  
25 means of electricity, gas or steam, there shall be local levies at the rates prescribed by § 58.1-  
26 2606.

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

7 D. Notwithstanding the provisions of subsection A, any county, city or town may impose  
 8 an excise tax under § 58.1-3818.3 upon a corporation owning or operating telegraph or  
 9 telephone lines in Virginia, at a rate that shall not exceed the rate lawfully imposed by § 58.1-  
 10 3818.3, on such corporation's gross receipts from sales of video programming or access to  
 11 video programming directly to end-user subscribers who are located within such county, city  
 12 or town.



14 **IN ORDER TO COME AS CLOSE AS POSSIBLE TO ACHIEVEING REVENUE**  
 15 **NEUTRALITY IN THIS LEGISLATION, A CONSUMER UTILITY TAX TO BE PAID BY**  
 16 **RESIDENTIAL, COMMERCIAL AND INDUSTRIAL USERS WILL BE CREATED BY THE**  
 17 **FOLLOWING CHAPTER 29. THIS TAX WILL REPLACE THE STATE AND LOCAL GROSS**  
 18 **RECEIPTS TAXES AND THE SCC SPECIAL ASSESSMENT TAX, WHICH IT IS ASSUMED**  
 19 **WERE PASSED ON TO CONSUMERS AS A COST OF DOING BUSINESS.**



21 *CHAPTER 29.*

22 *ELECTRIC UTILITY CONSUMPTION TAX.*

23 *§ 58.1-2900. Imposition of tax.*

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

|   |                      |                         |
|---|----------------------|-------------------------|
| 1 | <i>kWh per month</i> | <i>Maximum tax rate</i> |
| 2 | <i>0-2,500</i>       | <i>\$0.0161/kWh</i>     |
| 3 | <i>2,501-50,000</i>  | <i>0.0105/kWh</i>       |
| 4 | <i>50,001 +</i>      | <i>0.0079/kWh</i>       |

5           *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.*

9           *B. The tax authorized by this chapter shall not apply to municipalities and divisions or agencies of federal and state governments.*

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12           **NOTE: THIS SECTION IMPOSES THE STATE CONSUMER UTILITY TAX. IT ESTABLISHES THE TAX RATE PER KILLOWATT HOUR AND DESCRIBES WHICH TAXES ARE BEING REPLACED (SUBSECTION A). IT ALSO EXEMPTS MUNICIPALITIES AND DIVISIONS OR AGENCIES OF FEDERAL AND STATE GOVERNMENTS FROM THE TAX (SUBSECTION B).**

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18           *§ 58.1-2901. Collection and remittance of tax.*

19           *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 Commission. If any consumer refuses to pay the tax, the service provider shall notify the Commission. After the consumer pays the tax to the service provider, the taxes collected shall be deemed to be held in trust by such provider until remitted to the Commission.*

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26           **NOTE: THIS SUBSECTION EXPLAINS HOW THE TAX WILL BE COLLECTED, WHAT HAPPENS IF THE CONSUMER FAILS TO PAY, AND THAT THE PAID TAXES ARE DEEMED HELD IN TRUST UNTIL REMITTED TO THE SCC.**



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

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**NOTE: THIS SUBSECTION EXPLAINS THAT THE ELECTRIC UTILITY CORPORATIONS OR COOPERATIVES WILL REMIT TO THE SCC AND LOCALITIES ON A MONTHLY BASIS THE TAX REVENUES COLLECTED FROM CONSUMERS.**

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

Every county, city or town is hereby authorized to impose a license tax, in addition to any tax levied under Chapter 26 of this title, on (i) telephone and telegraph companies, (ii) water companies and (iii) *gas or steam* heat, light and power companies at a rate not to exceed one-half of one percent of the gross receipts of such company accruing from sales to the ultimate consumer in such county, city or town. However, in the case of telephone companies, charges for long distance telephone calls shall not be included in gross receipts for purposes of license taxation.

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**NOTE: THIS SECTION LIMITS THE APPLICATION OF THE LOCAL LICENSE (GROSS RECEIPTS) TAX WITH REGARD TO HEAT, LIGHT AND POWER COMPANIES TO THOSE PROVIDING SUCH SERVICES BY MEANS OF GAS OR STEAM, THEREBY EXEMPTING ELECTRIC UTILITY CORPORATIONS AND COOPERATIVES FROM THE TAX.**

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