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SENATE BILL NO. 1336

Offered January 13, 2025

Prefiled January 13, 2025

A BILL to amend and reenact § 58.1-2900 of the Code of Virginia, relating to electricity consumption tax; rate adjustments.

Patron—Marsden

Referred to Committee on Finance and Appropriations

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-2900 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-2900. Imposition of tax.

A. Effective January 1, 2001, there is hereby imposed, in addition to the local consumer utility tax of Article 4 (§ 58.1-3812 et seq.) of Chapter 38 and subject to the adjustments authorized by subdivision A 5 and by § 58.1-2902, a tax on the consumers of electricity in the Commonwealth based on kilowatt hours delivered by the incumbent distribution utility and used per month as follows:

1. Each consumer of electricity in the Commonwealth shall pay electric utility consumption tax on all electricity consumed per month not in excess of 2,500 kWh at the rate of \$0.001595 per kWh, as follows:

State consumption tax rate	Special regulatory tax rate	Local consumption tax rate
\$0.00102/kWh	\$0.000195/kWh	\$0.00038/kWh

2. Each consumer of electricity in the Commonwealth shall pay electric utility consumption tax on all electricity consumed per month in excess of 2,500 kWh but not in excess of 50,000 kWh at the rate of \$0.00102 \$0.001085 per kWh, as follows:

State consumption tax rate	Special regulatory tax rate	Local consumption tax rate
\$0.00065/kWh	<del>\$0.000134/kWh</del> \$0.000195/kWh	\$0.00024/kWh

3. Each consumer of electricity in the Commonwealth shall pay electric utility consumption tax on all electricity consumed per month in excess of 50,000 kWh at the rate of ~~\$0.000771~~ \$0.000875 per kWh, as follows:

State consumption tax rate	Special regulatory tax rate	Local consumption tax rate
\$0.00050/kWh	<del>\$0.0000914/kWh</del> \$0.000195/kWh	\$0.00018/kWh

4. The tax rates set forth in subdivisions 1, 2, and 3 are in lieu of and replace the state gross receipts tax (§ 58.1-2626), the special regulatory revenue tax (§ 58.1-2660), and the local license tax (§ 58.1-3731) levied on corporations furnishing heat, light or power by means of electricity.

5. 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 municipal electric utility elects to have an amount equivalent to the tax added on the bill such utility (or an association or agency of which it is a member) pays for bundled or unbundled transmission service as a separate item. Such amount, equivalent to the tax, shall be calculated under the tax rate schedule as if the municipal electric utility were selling and collecting the tax from its consumers, adjusted to exclude the amount which represents the local consumption tax if the locality in which a consumer is located does not impose a license fee rate pursuant to § 58.1-3731, and shall be remitted to the Commission pursuant to § 58.1-2901. Municipal electric utilities may bundle the tax in the rates charged to their retail customers. Notwithstanding anything contained herein to the contrary, the election permitted under this subdivision shall not be exercised by any municipal electric utility if the entity to whom the municipal electric utility (or an association or agency of which it is a member) pays for transmission service is not subject to the taxing jurisdiction of the Commonwealth, unless such entity agrees to remit to the Commonwealth all amounts equivalent to the tax pursuant to § 58.1-2901.

6. The tax on consumers set forth in subdivisions 1, 2, and 3 shall only be imposed in accordance with this subdivision on consumers of electricity purchased from a utility consumer services cooperative to the extent that such cooperative purchases, for the purpose of resale within the Commonwealth, electricity from a federal entity that made payments in accordance with federal law (i) in lieu of taxes during such taxable period to the Commonwealth and (ii) on the basis of such federal entity's gross proceeds resulting from the sale of such electricity. Such tax shall instead be calculated by deducting from each of the respective tax amounts calculated in accordance with subdivisions 1, 2, and 3 an amount equal to the calculated tax amount multiplied by the ratio of the total cost of power supplied by the federal entity, including facilities rental, during the taxable period to the utility consumer services cooperative's total operating revenue within the

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59 Commonwealth during the taxable period. The State Corporation Commission may audit the records and  
60 books of any utility consumer services cooperative that determines the tax on consumers in accordance with  
61 this subdivision to verify that the tax imposed has been correctly determined and properly remitted.

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

64 C. For purposes of this section, "kilowatt hours delivered" means in the case of eligible  
65 customer-generators, as defined in § 56-594, those kilowatt hours supplied from the electric grid to such  
66 customer-generators, minus the kilowatt hours generated and fed back to the electric grid by such  
67 customer-generators.