

DEPARTMENT OF TAXATION

2025 Fiscal Impact Statement

1. **Patron** Christopher T. Head

3. **Committee** Senate Finance and Appropriations

4. **Title** Retail Sales and Use Tax Exemption for electric utility equipment

2. **Bill Number** SB 1001

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would create an exemption from the Retail Sales and Use Tax for tangible personal property, including equipment, machinery, apparatus, supplies, and appliances that are used directly in the initiation, production, generation, transmission, or distribution of electricity by a Phase I utility. The term "Phase I utility" would have the same meaning as this term is used under a provision of the Virginia Electric Utility Regulation Act. This bill would have a sunset date of July 1, 2030.

If enacted during the regular session of the 2025 General Assembly, this bill would become effective July 1, 2025.

6. **Budget amendment necessary:** No.

7. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

8. **Fiscal implications:**

Administrative Costs

The Department of Taxation ("the Department") considers implementation of this bill as routine and does not require additional funding.

Revenue Impact

This bill would result in an unknown negative impact on local and state revenues beginning in FY 2026.

A wide range of equipment falls under the definition of tangible personal property used by electric utilities at various stages of production, generation, transmissions and/or distribution of electricity. The cost of such equipment varies widely depending on factors such as geographic location and power generation sources. It also is possible that the proposed exemption may overlap with the existing sales tax exemption for industrial materials used in production. Therefore, the revenue impact of this bill is unknown.

9. Specific agency or political subdivisions affected:

Department of Taxation
All localities

10. Technical amendment necessary: No.

11. Other comments:

Retail Sales and Use Tax

The Retail Sales and Use Tax is imposed upon the charge for the sale or use of tangible personal property, unless an exemption applies. Virginia law defines “tangible personal property” as personal property that may be seen, weighed, measured, felt, or touched, or is in any other manner perceptible to the senses. In general, any retail merchant is allowed to purchase items that it intends to resell to its customers exempt from the tax because it will collect the tax from its customers at the time of sale.

Although there is currently no exemption specifically for the tangible personal property described by this bill, Virginia law provides a broad exemption from the tax for certain tangible personal property when used or consumed by an industrial manufacturer or processor of products for sale or resale. The exemption extends to:

- Industrial materials for future processing, manufacturing, refining or conversion into tangible personal property for resale, where the materials enter into the production of or become a component part of the finished product;
- Industrial materials coated upon or impregnated into the product being processed, manufactured, refined or converted for resale;
- Machinery or tools, and their repair and replacement parts, fuel, power, energy or supplies used directly in processing, manufacturing, refining, mining or converting products for sale or resale; and
- Materials containers, labels, sacks, cans, boxes, drums or bags for future use for packaging tangible personal property for shipment or sale.

These exemptions generally apply only to those items for direct use in producing products for sale or resale. Other production items and items of tangible personal property used indirectly in production activities are deemed subject to the tax. If an otherwise exempt item of tangible personal property is put to use in two different activities, one of which is an immediate part of the industrial production process and the other of which is not, the sales and use tax applies in full when the preponderance of the item’s use (fifty percent or more) is in non-exempt activities. The item is totally exempt from tax if the preponderance of its use is in exempt production activities.

“Phase I utility” means an investor-owned incumbent electric utility that was, as of July 1, 1999, not bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002.

Sunset Dates for Income Tax Credits and Sales Tax Exemptions

Section 3-5.13 of the 2024 Appropriation Act provides that the General Assembly shall not advance the sunset date on any existing sales tax exemption or tax credit beyond June 30, 2030. Any new sales tax exemption or tax credit enacted by the General Assembly after the 2019 regular legislative session, but prior to the 2029 regular legislative session, is required to have a sunset date of not later than June 30, 2030.

Proposal

This bill would create an exemption from the Retail Sales and Use Tax for tangible personal property, including equipment, machinery, apparatus, supplies, and appliances that are used directly in the initiation, production, generation, transmission, or distribution of electricity by a Phase I utility. The term “Phase I utility” would have the same meaning as this term is used under a provision of the Virginia Electric Utility Regulation Act. This bill would have a sunset date of July 1, 2030.

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cc : Secretary of Finance

Date: 01/20/2025 KS
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