

26105147D

SENATE BILL NO. 651

Senate Amendments in [] - February 12, 2026

A *BILL to amend and reenact § 58.1-3814 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 15.2-2109.4, relating to qualifying localities; underground electric distribution and transmission improvements; levy on utility customers by ordinance.*

Patron Prior to Engrossment—Senator Perry

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3814 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 15.2-2109.4 as follows:

§ 15.2-2109.4. *Underground electric distribution and transmission levy in certain localities.*

A. For purposes of this section:

"Electric utility" includes any cooperative, as that term is defined in § 56-231.15, operating within a qualifying locality.

"Major commercial energy consumer" means a facility whose primary services are the storage, management, and processing of digital data and that is used to house (i) computer and network systems, including associated components such as servers, network equipment and appliances, telecommunications, and data storage systems; (ii) systems for monitoring and managing infrastructure performance; (iii) equipment used for the transformation, transmission, distribution, or management of at least [~~one megawatt~~ 25 megawatts] of capacity of electrical power and cooling, including substations, uninterruptible power supply systems, all electrical plant equipment, and associated air handlers; (iv) internet-related equipment and services; (v) data communications connections; (vi) environmental controls; (vii) fire protection systems; and (viii) security systems and services.

"Qualifying locality" means any county that (i) (a) is in Planning District 8 with a population greater than 435,000 and (b) does not operate under the county executive form of government or the urban county executive form of government, or (ii) is in Planning District 9 with a population greater than 74,000.

"Underground electric distribution or transmission improvements" means either (i) placing new or proposed electric distribution or transmission lines and facilities underground or (ii) relocating or converting existing overhead electric distribution or transmission lines and facilities underground. [However, "underground electric distribution or transmission improvements" does not include relocating or converting any existing overhead electric distribution line underground if broadband cable is attached to the poles supporting such line.]

B. The governing body of any qualifying locality may enter into an agreement with an electric utility operating therein to implement underground electric distribution or transmission improvements in such qualifying locality.

C. Any agreement entered into pursuant to subsection B shall include provisions providing that (i) the qualifying locality shall pay to the electric utility its full costs of (a) placing new or proposed electric distribution or transmission lines and facilities underground in the qualifying locality and (b) relocating and converting that portion of the electric distribution or transmission lines or the facility located in the qualifying locality underground rather than overhead, minus the net of relocation credits; (ii) the electric utility shall convert, operate, and maintain the new or proposed electric distribution or transmission lines and facilities and the agreed-upon portion of the facility underground in cooperation with any other utility or provider with facilities placed underground in such location; and (iii) the agreement is contingent upon the adoption of the levy set forth in subsection D. Any other terms and conditions on which the parties may agree shall be included in the agreement.

D. 1. If the qualifying locality and the electric utility enter into an agreement described in subsection B, the qualifying locality may impose an additional levy on electric utility customers in the qualifying locality pursuant to § 58.1-3814. The qualifying locality shall by ordinance fix the amount of such additional levy, which shall not exceed \$1 per month on residential customers, shall not exceed \$10 per month on nonresidential customers, and may be fixed at any amount on nonresidential customers that are major commercial energy consumers. Such ordinance may also provide for the administration and enforcement of such levy and such levy may be bonded. Any levy imposed pursuant to this section shall be in addition to the limit provided for by any utility consumer tax prescribed in § 58.1-3814.

2. The provider of billing services shall bill the levy to all users who are subject to the levy and for whom it bills electricity service and shall remit the proceeds of such levy to the appropriate locality.

E. The qualifying locality shall be responsible for securing the necessary easements and permits for the

ENGROSSED

SB651E

59 utility for the placement of underground electric distribution or transmission improvements, except for any
60 certificate required to be obtained by the electric utility pursuant to § 56-265.2. Nothing in this section shall
61 be construed to supersede or affect the provisions of § 56-46.1, 56-257, 56-257.5, or 56-466.2, subdivision A
62 6 of § 56-585.1, or § 56-585.1:5 or 56-623.

63 F. The provisions of this section shall control to the extent that such provisions are inconsistent with any
64 other provision of law except as provided in either subsection E or in the locality's comprehensive plan
65 prepared and adopted under Article 3 (§ 15.2-2223 et seq.) of Chapter 22.

66 **§ 58.1-3814. Water or heat, light and power companies.**

67 A. Any county, city or town may impose a tax on the consumers of the utility service or services provided
68 by any water or heat, light and power company or other corporations coming within the provisions of Chapter
69 26 (§ 58.1-2600 et seq.), which tax shall not be imposed at a rate in excess of 20 percent of the monthly
70 amount charged to consumers of the utility service and shall not be applicable to any amount so charged in
71 excess of \$15 per month for residential customers. *The limits specified herein shall not apply to a levy issued*
72 *by ordinance to certain utility consumers under § 15.2-2109.4.* Any city, town or county that on July 1, 1972,
73 imposed a utility consumer tax in excess of limits specified herein may continue to impose such a tax in
74 excess of such limits, but no more. For taxable years beginning on and after January 1, 2001, any tax imposed
75 by a county, city or town on consumers of electricity shall be imposed pursuant to subsections C through J
76 only.

77 B. Any tax enacted pursuant to the provisions of this section, or any change in a tax or structure already in
78 existence, shall not be effective until 60 days subsequent to written notice by certified mail from the county,
79 city or town imposing such tax or change thereto, to the registered agent of the utility corporation that is
80 required to collect the tax.

81 C. Any county, city or town may impose a tax on the consumers of services provided within its
82 jurisdiction by any electric light and power, water or gas company owned by another municipality; provided,
83 that no county shall be authorized under this section to impose a tax within a municipality on consumers of
84 services provided by an electric light and power, water or gas company owned by that municipality. Any
85 county tax imposed hereunder shall not apply within the limits of any incorporated town located within such
86 county which town imposes a town tax on consumers of utility service or services provided by any
87 corporation coming within the provisions of Chapter 26 (§ 58.1-2600 et seq.), provided that such town (i)
88 provides police or fire protection, and water or sewer services, provided that any such town served by a
89 sanitary district or service authority providing water or sewer services or served by the county in which the
90 town is located when such service or services are provided pursuant to an agreement between the town and
91 county shall be deemed to be providing such water and sewer services itself, or (ii) constitutes a special
92 school district and is operated as a special school district under a town school board of three members
93 appointed by the town council.

94 Any county, city or town may provide for an exemption from the tax for any public safety answering
95 point as defined in § 58.1-3813.1.

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

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

103 E. The tax authorized by this section shall not apply to:

104 1. Utility sales of products used as motor vehicle fuels; or

105 2. Natural gas used to generate electricity by a public utility as defined in § 56-265.1 or an electric
106 cooperative as defined in § 56-231.15.

107 F. 1. Any county, city or town may impose a tax on consumers of electricity provided by electric suppliers
108 as defined in § 58.1-400.2.

109 The tax so imposed shall be based on kilowatt hours delivered monthly to consumers, and shall not exceed
110 the limits set forth in this subsection. The provider of billing services shall bill the tax to all users who are
111 subject to the tax and to whom it bills for electricity service, and shall remit such tax to the appropriate
112 locality in accordance with § 58.1-2901. Any locality that imposed a tax pursuant to this section prior to
113 January 1, 2001, based on the monthly revenue amount charged to consumers of electricity shall convert its
114 tax to a tax based on kilowatt hours delivered monthly to consumers, taking into account minimum billing
115 charges. The kilowatt hour tax rates shall, to the extent practicable: (i) avoid shifting the amount of the tax
116 among electricity consumer classes and (ii) maintain annual revenues being received by localities from such
117 tax at the time of the conversion. The current service provider shall provide to localities no later than August
118 1, 2000, information to enable localities to convert their tax. The maximum amount of tax imposed on
119 residential consumers as a result of the conversion shall be limited to \$3 per month, except any locality that
120 imposed a higher maximum tax on July 1, 1972, may continue to impose such higher maximum tax on

121 residential consumers at an amount no higher than the maximum tax in effect prior to January 1, 2001, as
 122 converted to kilowatt hours. For nonresidential consumers, the initial maximum rate of tax imposed as a
 123 result of the conversion shall be based on the annual amount of revenue received from each class of
 124 nonresidential consumers in calendar year 1999 for the kilowatt hours used that year. Kilowatt hour tax rates
 125 imposed on nonresidential consumers shall be based at a class level on such factors as existing minimum
 126 charges, the amount of kilowatt hours used, and the amount of consumer utility tax paid in calendar year
 127 1999 on the same kilowatt hour usage. The limitations in this section on kilowatt hour rates for nonresidential
 128 consumers shall not apply after January 1, 2004. On or before October 31, 2000, any locality imposing a tax
 129 on consumers of electricity shall duly amend its ordinance under which such tax is imposed so that the
 130 ordinance conforms to the requirements of subsections C through J. Notice of such amendment shall be
 131 provided to service providers in a manner consistent with subsection B except that "registered agent of the
 132 provider of billing services" shall be substituted for "registered agent of the utility corporation." Any
 133 conversion of a tax to conform to the requirements of this subsection shall not be effective before the first
 134 meter reading after December 31, 2000, prior to which time the tax previously imposed by the locality shall
 135 be in effect.

136 2. For purposes of this section, "kilowatt hours delivered" shall mean in the case of eligible
 137 customer-generators, as defined in § 56-594, those kilowatt hours supplied from the electric grid to such
 138 customer-generators, minus the kilowatt hours generated and fed back to the electric grid by such
 139 customer-generators.

140 G. Until the consumer pays the tax to such provider of billing services, the tax shall constitute a debt to
 141 the locality. If any consumer receives and pays for electricity but refuses to pay the tax on the bill that is
 142 imposed by a locality, the provider of billing services shall notify the locality of the name and address of such
 143 consumer. If any consumer fails to pay a bill issued by a provider of billing services, including the tax
 144 imposed by a locality as stated thereon, the provider of billing services shall follow its normal collection
 145 procedures with respect to the charge for electric service and the tax, and upon collection of the bill or any
 146 part thereof shall (i) apportion the net amount collected between the charge for electric service and the tax
 147 and (ii) remit the tax portion to the appropriate locality. After the consumer pays the tax to the provider of
 148 billing services, the taxes shall be deemed to be held in trust by such provider of billing services until
 149 remitted to the localities.

150 H. Any county, city or town may impose a tax on consumers of natural gas provided by pipeline
 151 distribution companies and gas utilities. The tax so imposed shall be based on CCF delivered monthly to
 152 consumers and shall not exceed the limits set forth in this subsection. The pipeline distribution company or
 153 gas utility shall bill the tax to all users who are subject to the tax and to whom it delivers gas and shall remit
 154 such tax to the appropriate locality in accordance with § 58.1-2905. Any locality that imposed a tax pursuant
 155 to this section prior to January 1, 2001, based on the monthly revenue amount charged to consumers of gas
 156 shall convert to a tax based on CCF delivered monthly to consumers, taking into account minimum billing
 157 charges. The CCF tax rates shall, to the extent practicable: (i) avoid shifting the amount of the tax among gas
 158 consumer classes and (ii) maintain annual revenues being received by localities from such tax at the time of
 159 the conversion. Current pipeline distribution companies and gas utilities shall provide to localities not later
 160 than August 1, 2000, information to enable localities to convert their tax. The maximum amount of tax
 161 imposed on residential consumers as a result of the conversion shall be limited to \$3 per month, except any
 162 locality that imposed a higher maximum tax on July 1, 1972, may continue to impose such higher maximum
 163 tax on residential consumers at an amount no higher than the maximum tax in effect prior to January 1, 2001,
 164 as converted to CCF. For nonresidential consumers, the initial maximum rate of tax imposed as a result of the
 165 conversion shall be based on the annual amount of revenue received and due from each of the nonresidential
 166 gas purchase and gas transportation classes in calendar year 1999 for the CCF used that year. CCF tax rates
 167 imposed on nonresidential consumers shall be based at a class level on such factors as existing minimum
 168 charges, the amount of CCF used, and the amount of consumer utility tax paid and due in calendar year 1999
 169 on the same CCF usage. The initial maximum rate of tax imposed under this section shall continue, unless
 170 lowered, until December 31, 2003. Beginning January 1, 2004, nothing in this section shall be construed to
 171 prohibit or limit any locality from imposing a consumer utility tax on nonresidential customers up to the
 172 amount authorized by subsection A.

173 On or before October 31, 2000, any locality imposing a tax on consumers of gas shall duly amend its
 174 ordinance under which such tax is imposed so that the ordinance conforms to the requirements of subsections
 175 C through J of this section. Notice of such amendment shall be provided to pipeline distribution companies
 176 and gas utilities in a manner consistent with subsection B except that "registered agent of the pipeline
 177 distribution company or gas utility" shall be substituted for "registered agent of the utility corporation." Any
 178 conversion of a tax to conform to the requirements of this subsection shall not be effective before the first
 179 meter reading after December 31, 2000, prior to which time the tax previously imposed by the locality shall
 180 be in effect.

181 I. Until the consumer pays the tax to such gas utility or pipeline distribution company, the tax shall
 182 constitute a debt to the locality. If any consumer receives and pays for gas but refuses to pay the tax that is

183 imposed by the locality, the gas utility or pipeline distribution company shall notify the localities of the
184 names and addresses of such consumers. If any consumer fails to pay a bill issued by a gas utility or pipeline
185 distribution company, including the tax imposed by a locality, the gas utility or pipeline distribution company
186 shall follow its normal collection procedures with regard to the charge for the gas and the tax and upon
187 collection of the bill or any part thereof shall (i) apportion the net amount collected between the charge for
188 gas service and the tax and (ii) remit the tax portion to the appropriate locality. After the consumer pays the
189 tax to the gas utility or pipeline distribution company, the taxes shall be deemed to be held in trust by such
190 gas utility or pipeline distribution company until remitted to the localities.

191 J. For purposes of this section:

192 "Class of consumers" means a category of consumers served under a rate schedule established by the
193 pipeline distribution company and approved by the State Corporation Commission.

194 "Gas utility" has the same meaning as provided in § 56-235.8.

195 "Pipeline distribution company" has the same meaning as provided in § 58.1-2600.

196 "Service provider" and "provider of billing services" have the same meanings as provided in subsection E
197 of § 58.1-2901, and "class" of consumers means a category of consumers defined as a class by their service
198 provider.

199 K. Nothing in this section shall prohibit a locality from enacting an ordinance or other local law to allow
200 such locality to impose a tax on consumers of natural gas provided by pipeline distribution companies and
201 gas utilities, beginning at such time as natural gas service is first made available in such locality. The
202 maximum amount of tax imposed on residential consumers based on CCF delivered monthly to consumers
203 shall not exceed \$3 per month. The maximum tax rate imposed by such locality on nonresidential consumers
204 based on CCF delivered monthly to consumers shall not exceed an average of the tax rates on nonresidential
205 consumers of natural gas in effect (at the time natural gas service is first made available in such locality) in
206 localities whose residents are being provided natural gas from the same pipeline distribution company or gas
207 utility or both that is also providing natural gas to the residents of such locality. Beginning January 1, 2004,
208 the tax rates for residential and nonresidential consumers of natural gas in such locality shall be determined in
209 accordance with the provisions of subsection H.