VIRGINIA ACTS OF ASSEMBLY - 2026 SESSION

CHAPTER 864

An Act to amend and reenact §§ 56-585.1:5 and 58.1-3814 of the Code of Virginia, relating to pilot program for underground transmission lines; qualifying projects; levy; report.

[S 827]

Approved April 13, 2026

Be it enacted by the General Assembly of Virginia:

1. That §§ 56-585.1:5 and 58.1-3814 of the Code of Virginia are amended and reenacted as follows:

§ 56-585.1:5. Pilot program for underground transmission lines; report.

A. There is hereby established a pilot program to further the understanding of underground electric transmission lines in regard to electric reliability, construction methods and related cost and timeline estimating, the probability of meeting such projections, and the benefits of undergrounding existing electric transmission lines to promote economic development within the Commonwealth. The pilot program shall consist of the approval to construct ~~qualifying~~ *new* electrical transmission lines ~~of 230~~*, at least a portion of which have a capacity of 500* kilovolts ~~or less (but greater than 69 kilovolts)~~ *and which are proposed to be constructed* in whole or in part underground *to the extent that any portion of such lines is located within one quarter mile of any area zoned residential ("qualifying project").* Such pilot program shall consist of a total of ~~two~~ *four* qualifying ~~electrical transmission line~~ projects, constructed in whole or in part underground, as specified and set forth in this section.

B. ~~Notwithstanding any other law to the contrary, as a part of the pilot program established pursuant to this section,~~ *In reviewing any application submitted by a public utility for a certificate of public convenience and necessity for the construction of an electrical transmission line of 500 kilovolts filed between January 1, 2025, and July 1, 2033,* the Commission ~~shall~~ *may* approve *such project* as a qualifying project ~~a transmission line of 230 kilovolts or less that is pending final approval of a certificate of public convenience and necessity from the Commission as of December 31, 2017, for the construction of an electrical transmission line approximately 5.3 miles in length utilizing both overhead and underground transmission facilities, of which the underground portion shall be approximately 3.1 miles in length, which has been previously proposed for construction within or immediately adjacent to the right-of-way of an interstate highway. Once the Commission has affirmed the project need through an order, the project shall be constructed~~ *to be constructed in whole or* in part underground~~, and the underground portion shall consist of a double circuit.~~

~~The Commission shall approve such underground construction within 30 days of receipt of the written request of the public utility to participate in the pilot program pursuant to this section. The Commission shall not require the submission of additional technical and cost analyses as a condition of its approval but may request such analyses for its review. The Commission shall approve the underground construction of one contiguous segment of the transmission line that is approximately 3.1 miles in length that was previously proposed for construction within or immediately adjacent to the right-of-way of the interstate highway, for which, by resolution, the locality has indicated general community support. The remainder of the construction for the transmission line shall be aboveground. The Commission shall not be required to perform any further analysis as to the impacts of this route, including environmental impacts or impacts upon historical resources~~ *as part of the pilot program. For the purposes of this section, "qualifying project" includes a 500 kilovolt and 230 kilovolt electrical transmission line project, approximately 8.3 miles in length, that was pending final approval of a certificate of public convenience and necessity from the Commission as of February 1, 2026, provided that (i) such project otherwise meets the criteria set forth in subdivisions C 1 and 4 and G 1 and (ii) the Commission determines after review that such project substantively meets the criteria set forth in subdivisions C 2 and 3 and G 3. The Commission shall approve a maximum of four qualifying projects under the pilot program and shall provide an expedited review of any application for approval of a qualifying project.*

The electric utility may proceed to acquire right-of-way and take such other actions as it deems appropriate in furtherance of the construction of the approved transmission line, including acquiring the cables necessary for the underground installation.

C. ~~In reviewing applications submitted by public utilities for certificates of public convenience and necessity for the construction of electrical transmission lines of 230 kilovolts or less filed between July 1, 2018, and October 1, 2020, the Commission shall approve, consistent with the requirements of subsection D, one additional application as a qualifying project to be constructed in whole or in part underground, as a part of this pilot program. The one qualifying project shall be in addition to the qualifying project described in subsection B and shall be the relocation or conversion of an existing 230-kilovolt overhead line to an underground line.~~

~~D.~~ For purposes of ~~subsection C~~ *this section,* ~~a~~ *the Commission may only approve a qualifying* project ~~shall be qualified~~ to be placed underground~~,~~ in whole or in part~~,~~ if it meets all of the following criteria: ~~(i) an~~

1. The Commission finds that an engineering analysis demonstrates that it is technically feasible to place the proposed line~~,~~ in whole or in part~~,~~ underground; ~~(ii) the~~

2. The application contains information regarding projections of the overall cost of the project if (i) placed in whole or in part underground and (ii) placed entirely above ground, as well as evidence that each locality in which a portion of the proposed line will be placed is interested in participating in such project;

3. The application contains evidence that the governing body of each locality in which *at least* a portion of the proposed line will be placed underground ~~indicates~~ *supports the qualifying project's inclusion in the pilot program and that each such locality agrees,* by resolution, ~~general community support for the project and that it supports the transmission line to be placed underground; (iii) a project has been filed with the Commission or is pending issuance of a certificate of public convenience and necessity by October 1, 2020; (iv) the estimated additional cost of placing the proposed line, in whole or in part, underground does not exceed $40 million or, if greater than $40 million, the cost does not exceed 2.5 times the cost of placing the same line overhead, assuming accepted industry standards for undergrounding to ensure safety and reliability; if the public utility, the affected localities, and the Commission agree, a proposed underground line whose cost exceeds 2.5 times the cost of placing the line overhead may also be accepted into the pilot program; (v) the public utility requests that the project be considered as a qualifying project under this section; and (vi) the primary need of the project shall be for purposes of grid reliability, grid resiliency, or to support economic development priorities of the Commonwealth, including the economic development priorities and the comprehensive plan of the governing body of the locality in which at least a portion of line will be placed, and shall not be to address aging assets that would have otherwise been replaced in due course*

to meet its funding obligations under subdivision G 1, including through any method described in subdivision G 3; and

4. The Commission finds that the overall cost of the project is reasonable and consistent with the public interest.

The Commission may, in its discretion, deny an application for a qualifying project that otherwise meets the criteria set forth in this subsection, provided that it provides its rationale for doing so.

~~E.~~ *D.* A transmission line project that is found to meet the criteria of subsection ~~D~~ *C* shall be deemed to satisfy the requirements of subsection B of § 56-46.1 with respect to a finding of the Commission that the line is needed.

~~F.~~ *E.* Approval of a transmission line pursuant to this section for inclusion in the pilot program shall be deemed to satisfy the requirements of § 15.2-2232 and local zoning ordinances with respect to such transmission line and any associated facilities, such as stations, substations, transition stations and locations, and switchyards or stations, that may be required.

~~G.~~ *F.* The Commission shall report annually to the Commission on Electric Utility ~~Restructuring, the Joint Commission on Technology and Science,~~ *Regulation* and the Governor on the progress of the pilot program by no later than December 1 of each year that this section is in effect. The Commission shall submit a final report to the Commission on Electric Utility ~~Restructuring, the Joint Commission on Technology and Science,~~ *Regulation* and the Governor no later than December 1, ~~2024~~ *2034*, analyzing the entire program and making recommendations about the continued placement of transmission lines underground in the Commonwealth. ~~The Commission's final report shall include analysis and findings of the costs of underground construction and historical and future consumer rate effects of such costs, effect of underground transmission lines on grid reliability, operability (including operating voltage), probability of meeting cost and construction timeline estimates of such underground transmission lines, and economic development, aesthetic or other benefits attendant to the placement of transmission lines underground.~~

~~H. For~~ *G. 1. Subject to subdivision 3, at least 50 percent of* the *marginal cost of the portion of a* qualifying ~~projects~~ *project* chosen *to be placed underground within a locality* pursuant to this section ~~and not fully recoverable as charges for new transmission facilities pursuant to subdivision A 4 of § 56-585.1, the Commission~~ shall ~~approve a rate adjustment clause~~ *be paid by such locality.* ~~The rate adjustment clause shall provide for the full and timely recovery of any portion of the cost of such project not recoverable under applicable rates, terms, and conditions approved by the Federal Energy Regulatory Commission and shall include the use of the fair return on common equity most recently approved in a State Corporation Commission proceeding for such utility. Such costs shall be entirely assigned to the utility's Virginia jurisdictional customers. The Commission's final order regarding any petition filed pursuant to this subsection shall be entered not more than three months after the filing of such petition.~~ *If the Commission determines that retail customers of the public utility that are not located in a locality in which such portion of a qualifying project is located will be adversely affected in a manner contrary to the public interest by the approval of such qualifying project, all or a portion of the remaining marginal cost of such portion shall be paid by the locality in which such portion is chosen to be placed underground, as determined by the Commission in a manner that is just, reasonable, and in the public interest. For any qualifying project located in more than one locality, each locality in which such qualifying project is located shall coordinate to divide the total marginal cost among such localities.*

2. At least 30 days prior to filing an application for the approval of a qualifying project with the Commission, a public utility shall provide the locality with the estimated overall cost of the project if placed in whole or in part underground or if placed entirely above ground and the estimated marginal cost. As used in this section, "marginal cost" means the difference between the projected cost of placing an electric transmission line in whole or in part underground and the projected cost of placing such line above ground, as required by subdivision C 2. A locality's support of a qualifying project's inclusion in the pilot program and agreement to the funding obligations in subdivision 1 shall be indicated by resolution.

3. No locality shall be obligated under subdivision 1 to pay the marginal cost for an approved qualifying project if such locality files a notice with the Commission within 30 days after a final order approving such project stating that the locality has withdrawn its resolution supporting the qualifying project in the pilot program and its agreement to meet the funding obligations under subdivision 1. If a locality files such notice, the Commission shall modify its final order as necessary to withdraw a qualifying project from the pilot program. To meet its obligations pursuant to this subsection, a locality may (i) impose a levy by ordinance pursuant to subdivision 4 and issue a bond payable exclusively from the revenue from such levy; (ii) issue a general obligation bond subject to a referendum carried out pursuant to the provisions of § 15.2-2610; (iii) allocate its own funds, which allocation may be carried out over a period of multiple years subject to appropriation by the governing body of the locality; or (iv) use any combination of such methods.

4. The governing body of any locality in which a portion of an electric transmission line is proposed to be placed underground as part of a qualifying project may impose an additional levy on electric utility customers in such locality pursuant to § 58.1-3814, provided the requirements of this subdivision are satisfied. Any levy imposed pursuant to this subdivision shall be in addition to the limit for any utility consumer tax prescribed in § 58.1-3814. A locality that imposes such levy shall by ordinance fix the amount of such additional levy, provided that such levy shall not exceed $0.99 per month on residential customers. Any such levy shall be developed in consultation with Commission staff and structured based on the rate adjustment clause recovery factors and cost allocation reflected in the relevant utility's most recent transmission rate adjustment clause proceeding approved by the Commission, and the apportionment of costs among customer classes shall be consistent with cost apportionment principles applied by the Commission in establishing electric utility rates. In developing the levy structure in consultation with Commission staff, the locality shall consider whether the apportionment of costs among other customer classes reasonably reflects the electric consumption patterns and demand patterns of such classes in the locality. A locality may adjust such levy by ordinance to reflect subsequent changes to the relevant utility's transmission rates approved by the Commission. The proceeds of such levy shall be dedicated to the portion of costs required to be paid by such locality for such qualifying project pursuant to subdivision 1. For the purposes of this subdivision, "cost apportionment principles" means the principles applied by the Commission in rate proceedings to allocate costs among the customer classes, including (i) cost causation, under which costs are allocated to customer classes based on the extent to which such classes cause the utility to incur such costs; (ii) avoidance of undue discrimination among similarly situated customers; and (iii) the requirement that rates and charges be just and reasonable.

5. For any qualifying project approved pursuant to this section for which costs have not been fully recovered as charges for new transmission facilities pursuant to subdivision A 4 of § 56-585.1, the Commission shall allow a separate, supplemental rate adjustment clause under such subdivision for the limited purpose of timely recovering such costs, which shall be assigned to the public utility's jurisdictional customers in the Commonwealth.

6. A locality in which an approved qualifying project is located may acquire rights-of-way, easements, or similar interests in land directly adjacent to the approved route and rights-of-way and easements obtained by the public utility for such project solely for the co-location of other public utilities with the project. If a locality seeks to exercise this authority, it (i) shall not acquire any rights within the Commission-approved route; (ii) shall ensure that the location of other public utilities adjacent to the approved qualifying project does not interfere with the construction and operation of such project; and (iii) may enter into an agreement with the public utility to coordinate the acquisition and rights-of-way development, construction, and operation processes. Any acquisition by a locality under this subdivision shall be subject to Chapter 19 (§ 15.2-1901 et seq.) of Title 15.2 and any other applicable law. A locality that acquires interests in land pursuant to the authority of this subdivision may use any proceeds from the location of other public utilities within such interests to meet its obligations under subdivision 1.

H. Approval of a proposed transmission line for inclusion in the pilot program shall not preclude the placement of existing or future overhead electric facilities in the same area or corridor by other electric infrastructure projects.

I. The provisions of this section shall not be construed to limit the ability of the Commission to approve additional applications for placement of transmission lines underground. ~~Approval by the Commission of a transmission line for inclusion in the program pursuant to subsection B shall preclude the placement of future overhead electrical transmission lines of at least 69 kilovolts in the same right-of-way as described in subsection B for a period of 10 years from July 1, 2018, but shall not preclude the placement of (i) any~~

~~underground transmission lines in such right-of-way or (ii) any electrical distribution lines in such right-of-way.~~

J. ~~If two applications are not submitted to the Commission that meet the requirements of this section, the Commission shall document the failure of the projects to qualify for the pilot program in order to justify approving fewer than two projects to be placed underground, in whole or in part.~~

~~K.~~ Insofar as the provisions of this section are inconsistent with the provisions of any other law or local ordinance, the provisions of this section shall be controlling.

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

A. Any county, city, or town may impose a tax on the consumers of the utility service or services provided by any water or heat, light, and power company or other corporations coming within the provisions of Chapter 26 (§ 58.1-2600 et seq.), which tax shall not be imposed at a rate in excess of 20 percent of the monthly amount charged to consumers of the utility service and shall not be applicable to any amount so charged in excess of $15 per month for residential customers. *No limit specified herein shall apply to a levy issued by ordinance pursuant to subdivision G 4 of § 56-585.1:5.* Any city, town, or county that on July 1, 1972, imposed a utility consumer tax in excess of limits specified herein may continue to impose such a tax in excess of such limits, but no more. For taxable years beginning on and after January 1, 2001, any tax imposed by a county, city, or town on consumers of electricity shall be imposed pursuant to subsections C through J only.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

J. For purposes of this section:

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

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

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

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

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