Virginia Reforms Local Tax Treatment of Energy Storage Projects
March 2021

**HB 2006/SB 1201 and HB 2201/SB 1207**
Status: Signed by the Governor

Two bills, HB 2006/SB 1201 and HB 2201/SB 1207, align the tax treatment of energy storage projects between 5 MW and 150 MW with existing Virginia clean energy taxes and ensure that local communities can benefit from energy storage development. Key provisions include:
- Elimination of sales tax for energy storage equipment;
- Option to reduce local tax, or replace tax with a fixed revenue share; and
- Authorization for direct, non-tax benefits to local governments.

The tax reforms provide a less burdensome, simpler, and more transparent local tax regime for energy storage projects as Virginia pursues development of large-scale energy storage to meet its storage target of 3,100 MW by 2035.

**Background**

**Virginia Clean Economy Act**

In 2020, Virginia passed the Clean Economy Act (VCEA), groundbreaking legislation that set the highest energy storage target in the nation at 3,100 MW. Read ESA’s summary of the VCEA [here](#). In anticipation of the law’s passage, Dominion Energy issued a Request for Proposal for 250 MW of energy storage resources in March of 2020, presenting an immediate significant opportunity for energy storage development in Virginia.

In December, the Virginia State Corporation Commission issued final rules for the implementation of the VCEA’s energy storage targets. The Commission set interim targets for Dominion Energy and Appalachian Power to achieve the combined 3,100 MW target, as well as guidelines for competitive procurement, and permitting of energy storage systems above 1 MW.

**Energy Tax Treatment**

In Virginia, equipment such as solar and energy storage systems owned by an entity other than a utility is assessed a machine and tools ("M&T") tax. Local M&T taxes vary from county to county, ranging from 0.19% to as high as 4% of the assessed value of the equipment. M&T equipment is assigned different depreciation schedules for each county, creating a patchwork of taxation schemes across the state. Due to these complexities, Virginia solar developers passed legislation in the spring of 2020 to create a partial exemption from local taxes and allow local governments to assess a flat $1,1400/MW revenue share on solar systems in lieu of taxes. However, that solar tax treatment did not extend to energy storage systems.
**Legislative Summary**

**HB 2006/SB 1201: Tax Reduction, Exemption, and Revenue Share**

HB 2006/SB 1201 adds energy storage systems greater than 25 MW to the definition of “electric suppliers,” effectively taxing energy storage systems at the real estate rate, rather than the M&T rate. This change also puts energy storage equipment on a single depreciation schedule developed by the State Corporation Commission (“SCC”) for the whole state. Energy storage systems less than 25 MW will continue to use the county’s local depreciation schedule. The bills also define energy storage systems as “certified pollution control equipment,” which exempts all energy storage systems greater than 5 MW and less than 150 MW from sales tax.

HB 2006/SB 1201 provide two options for counties to tax energy storage projects above 5 MW and under 150 MW:

- The energy storage system is subject to a “revenue share” of $1400/MW that is uniform across all counties. The revenue share increases by 10% every 5 years. Energy storage projects that pay the revenue share are exempt from all other taxes; or
- The energy storage system is subject to a county’s real property tax rate but receives an 80% exemption in its first 5 years, 70% exemption in years 6-10, and 60% exemption thereafter.

This optionality creates a statewide benchmark for the local taxation of energy storage systems while providing local governments the flexibility to create a tax system to meet their own economic development goals. The matrix below summarizes changes:

<table>
<thead>
<tr>
<th>Tax Component</th>
<th>2020 Status Quo AND Systems &lt; 5 MW or &gt; 150 MW</th>
<th>2021 Update Revenue Share Option</th>
<th>2021 Update Stepdown Option</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sales Tax</td>
<td>Applies</td>
<td>Exempt</td>
<td>Exempt</td>
</tr>
<tr>
<td>Property Tax</td>
<td>100% M&amp;T Rate (rate varies by county)</td>
<td>$1,400 per MW (AC capacity)</td>
<td>Real estate rate with step-down exemption*</td>
</tr>
<tr>
<td>Property Tax adjustments over time</td>
<td>Varies by local government</td>
<td>10 percent increase every 5 years</td>
<td>80% exemption years 1-5; 70% exemption years 6-10; 60 percent exemption years 11+</td>
</tr>
<tr>
<td>Depreciation</td>
<td>Varies by local government</td>
<td>Schedule set by SCC</td>
<td>Schedule set by SCC**</td>
</tr>
</tbody>
</table>

* Systems less than 25 MW are taxed at the M&T rate.
** Systems less than 25 MW follow the depreciation schedule set by the local government.

**HB 2201/SB 1207: Siting Agreements for Energy Storage**

Previously, siting agreements were not allowed for standalone energy storage projects – the only manner in which energy storage projects could provide local benefits was through the payment of local taxes. Solar developers in opportunity zones have been able to use siting agreements to gain local support for development. HB 2201/SB 1207 allow standalone energy storage developers and local
governments to enter into siting agreements that allow for the storage system developer to provide direct compensation to local governments for specific purposes, such as mitigating local impacts or funding capital improvement projects. Siting agreements can be useful tools to provide additional negotiating leverage for developers seeking approval for a project in a specific locality.

For More Information

The bill text can be accessed here: HB 2006/SB 1201, HB 2201/SB 1207

For more information, please contact ESA at info@energystorage.org.