

To: Virginia Municipal League

From: Chip Dicks and Scott Foster/Gentry Locke

Re: Summary of 2020 Utility Scale Solar Land Use
and Local Revenue Legislation

Date: July 31, 2020

The purpose of this memorandum is to provide a summary of the package of legislation in the 2020 Virginia General Assembly relating to local land-use and local revenues for utility-scale solar (“USS”) projects.

- **Conditional Use Permits for Solar Projects** – This legislation clarifies that the County may accept cash payments for solar projects through a conditional use permit provided that such payments meet the nexus test, in other words, the payments need to off-set the impacts of a particular solar project. This legislation provides a solar developer and a locality “another tool in the toolbox” to negotiate compensation to a locality as part of an approval of a solar land use application.

<https://lis.virginia.gov/cgi-bin/legp604.exe?ses=201&typ=bil&val=hb655>
<https://lis.virginia.gov/cgi-bin/legp604.exe?ses=201&typ=bil&val=sb870>

- **Extension of M&T Exemption for Solar Projects** –This legislation extends the 80% exemption for solar projects from machinery and tools tax assessments from January 1, 2024 until June 30, 2030. This legislation also changes the “trigger” for the exemption date from “when construction begins” to “when an application is filed with the locality” (which is defined in the legislative language). Finally, the bill creates a “step down” schedule that decreases the 80% exemption down to 60% for solar projects for which an interconnection request was filed after January 1, 2019.

<https://lis.virginia.gov/cgi-bin/legp604.exe?ses=201&typ=bil&val=hb1434>
<https://lis.virginia.gov/cgi-bin/legp604.exe?ses=201&typ=bil&val=sb763>

- **Revenue Share/Local Option by Ordinance for Solar Projects** –This legislation creates a local option for localities to adopt a revenue share ordinance to allow localities to assess \$1,400 per megawatt capacity to provide a meaningful and reliable revenue stream from the solar project to the localities without impacting their state education funding formula or being subject to a depreciation schedule otherwise applicable to a machinery and tools tax regime. If the locality adopts a revenue share ordinance, the legislation requires a 100% M&T Tax Exemption.

<https://lis.virginia.gov/cgi-bin/legp604.exe?ses=201&typ=bil&val=hb1131>
<https://lis.virginia.gov/cgi-bin/legp604.exe?ses=201&typ=bil&val=sb762>

- **Solar Projects & Comprehensive Plans** –This legislation authorizes a County to waive the “substantially in accord” (“SIA”) determination with the comprehensive plan.

<https://lis.virginia.gov/cgi-bin/legp604.exe?ses=201&typ=bil&val=hb657>

- **Use of National Standards for Solar Projects** –This legislation allows Counties to incorporate generally accepted national standards for solar projects and battery storage into zoning ordinances for solar projects. However, this legislative authority does not allow a locality to create their own standards that vary from these national standards.

<https://lis.virginia.gov/cgi-bin/legp604.exe?ses=201&typ=bil&val=hb656>
<https://lis.virginia.gov/cgi-bin/legp604.exe?ses=201&typ=bil&val=sb875>

- **Siting Agreements for Solar Projects** –This legislation creates another tool for localities and solar developers to negotiate business terms and conditions for approval of solar projects. This key points of this legislation are as follows: (i) a siting agreement may be used if a solar project is located on a parcel of real property in a census tract that meets the eligibility criteria to be designated as a federal opportunity zone; (ii) approval of a siting agreement by the local governing body automatically deems the solar project in substantial accord with the locality’s comprehensive plan; (iii) a solar developer and a locality may provide funding for important local capital projects included in the locality’s capital improvement plan or for deployment of broadband which is so important to the improving the quality of life in rural Virginia; (iv) a solar developer still files land use applications with the locality regardless of whether an agreement is reached between the solar developer and locality in a siting agreement; and (v) a siting agreement may supersede provisions of the zoning ordinance if agreement is reached between the solar developer and the locality.

<https://lis.virginia.gov/cgi-bin/legp604.exe?ses=201&typ=bil&val=hb1675>