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## SENATE BILL NO. 1089

Offered January 9, 2019

Prefiled December 18, 2018

A *BILL to amend and reenact § 2.2-2342 of the Code of Virginia, relating to Fort Monroe Authority; payments to the City of Hampton in lieu of real property taxes.*

Patron—Locke

Referred to Committee on Local Government

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-2342 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-2342. Payments to Commonwealth or political subdivisions thereof; payments to the City of Hampton.**

A. The Authority may agree to make such payments to the Commonwealth or any political subdivision thereof, which payments such bodies are hereby authorized to accept, for any goods, services, licenses, concessions or franchises as the Authority finds consistent with the purposes for which the Authority has been created.

B. On or before January 15, 2012, the Authority shall pay to the City of Hampton a fee in an amount to be determined by the formula defined below for the period September 15, 2011, through December 31, 2011. *Thereafter, fees It is the intent of this section that for all properties at Fort Monroe that would be taxed by the City of Hampton if privately held, the Authority shall pay a fee in lieu of taxes, but that properties at Fort Monroe that would not be taxed by the City if privately held shall be exempt from the fee, subject to the terms and conditions set forth herein. Fees payable by the Authority to the City of Hampton pursuant to this subsection shall be payable, in arrears, for the period January 1 through June 30 on each June 30, and for the period July 1 through December 31 on each December 31. The fee payable shall be determined as follows: (i) all property in the Fort Monroe Area of Operation shall be assessed as if it was privately owned property; (ii) property exempt from taxation by classification under § 58.1-3606 that would not be taxed if it was located elsewhere in the City of Hampton by virtue of the ownership, control, or use of the property, other than property classified solely under subdivision A 1 of § 58.1-3606, based on the use of the property and regardless of ownership of the property, shall be excluded from the calculation of the fee; and (iii) property designated by ordinance of the City of Hampton as exempt from taxation pursuant to § 58.1-3651, or pursuant to any other applicable action of the City Council, based on the use of the property and regardless of ownership of the property, shall be excluded from the calculation of the fee; (iv) property owned or leased and exclusively used by the National Park Service or the City of Hampton, property remaining under the ownership of the federal government, and any other property that would not be taxed if it was located elsewhere in the City of Hampton by virtue of the ownership, control, or use of the property, except as otherwise provided herein, shall be excluded from the calculation of the fee; and (v) the total assessed value of the property, less any exclusions as indicated herein, shall then be divided by \$100, multiplied by the then-current real estate tax rate set by the City of Hampton, minus the real estate taxes (a) owed to the City of Hampton directly from taxpayers other than the Authority within the Authority's Area of Operation, including lessees subject to taxation and billed pursuant to subsection D, and (b) collected by the Authority and remitted to the City of Hampton pursuant to subsection D in the calendar year prior to the year for which a fee is assessed. This shall be the amount of the fee payable by the Authority to the City of Hampton. It is the intent of this section that for properties at Fort Monroe that would be taxed by the City of Hampton if privately held, the Authority shall pay a fee in lieu of taxes, but that properties at Fort Monroe that would not be taxed by the City if privately held shall be exempt from the fee, taking into account the current limitations on the transfer of properties at Fort Monroe. The Authority or its qualifying lessees shall may apply to the assessor of real estate for the City of Hampton and follow the process for recognition of the exemption applicable to other such properties in the City for any property subject to the fee, other than property subject to taxation and billed directly to the lessee pursuant to subsection D. The Authority shall use all funds available and manage its finances and take all necessary and prudent actions to ensure that the fee provided in subsection B is paid when due and shall notify the City of Hampton and the Trustees as soon as practical if the funds will not be available to pay the fee when due and the Trustees shall take all necessary actions to remedy any deficiency. In the event the fee is not paid when due, interest thereon shall at that time accrue at the rate, not to exceed the maximum amount allowed by § 2.2-4355, determined by the City of Hampton until such time as the overdue payment and interest are paid. Unpaid fees and interest thereon shall rank*

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59 in parity with liens for unpaid taxes and may be collected by the City of Hampton as taxes are  
60 collected; however, no real property of the Commonwealth or the Authority may be sold in such  
61 collection efforts.

62 C. The Authority shall have the right to contest the assessments made on property at Fort Monroe  
63 owned by the Commonwealth or itself or any property for which the Commonwealth or the Authority  
64 shall be responsible for payment of the fee, using the procedures utilized by other citizens of the City of  
65 Hampton, including appeals to the Board of Review of Real Estate Assessments for the City of  
66 Hampton and appeals therefrom to the Circuit Court of the City of Hampton, which is hereby granted  
67 jurisdiction to adjudicate any such appeal by the Authority in the same manner as applicable to private  
68 property owners or lessees in the City.

69 D. Notwithstanding the provisions of § 58.1-3203, all real property in the Area of Operation that is  
70 leased, whether by short-term operating/revenue lease or long-term ground lease, shall be assessed as if  
71 it were privately owned property and each lessee thereof shall be subject to taxation to be billed and  
72 collected by the City of Hampton as if the lessee were the owner, regardless of the term; however,  
73 leases for a cumulative term of less than 20 years shall be billed and collected from the Authority by  
74 the City of Hampton. For purposes of this section, "cumulative term" includes the original lease term  
75 plus any optional extensions or renewals of the original term.

76 The City of Hampton shall have no obligation to assess any leased property that may be subject to  
77 taxation pursuant to this subsection unless and until it has received from the Authority a complete and  
78 fully executed copy of the lease, which shall include a description of the property comparable to that  
79 which would be required for the fee simple conveyance of the property. Any property not assessed by  
80 the City of Hampton pursuant to this subsection shall remain subject to the provisions of subsection B.

81 The Authority and any lessee that is directly billed by the City of Hampton (i) may apply to the  
82 assessor of real estate for the City of Hampton and follow the process for recognition of an exemption  
83 applicable to other similar properties in the City and (ii) shall have the right to contest the assessments  
84 made on property taxed to the lessee pursuant to this subsection using the procedures utilized by other  
85 citizens of the City of Hampton, including appeals to the Board of Review of Real Estate Assessments  
86 for the City of Hampton and appeals therefrom to the Circuit Court of the City of Hampton. The Circuit  
87 Court of the City of Hampton is granted jurisdiction to adjudicate any appeal by such lessee in the  
88 same manner applicable to private property owners and other lessees in the City. This subsection shall  
89 not apply to leases of any term with other government entities.