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## HOUSE BILL NO. 292

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance  
on March 4, 1996)

(Patron Prior to Substitute—Delegate Brickley)

*A BILL to enact a second supplemental federal retiree settlement program.***Be it enacted by the General Assembly of Virginia:**

1. § 1. The Tax Commissioner is hereby authorized to determine which retired federal and military taxpayers were denied participation in either the Federal Retiree Settlement Act (Enactment clause 2 of Chapter 5 of the 1994 Acts of Assembly, Special Session I) or the supplemental federal retiree settlement program (Chapters 185 and 203 of the 1995 Acts of Assembly); and is authorized to enter into settlement agreements with such taxpayers in an amount equal to the settlement amounts retirees will receive or have received under the Federal Retiree Settlement Act.

1. *To be eligible to receive these payments, a taxpayer must (i) have failed to fully or partially participate in either the original settlement program or the supplemental settlement program; (ii) have notified the Tax Department by March 9, 1996, that he or she is not currently participating or did not participate in the prior settlement programs; (iii) provide the Department with the information the Department deems to be necessary for purposes of determining the validity of and quantifying a taxpayer's claimed tax overpayment; and (iv) submit a properly executed settlement agreement, which releases the Commonwealth and its agencies, officers and employees from any further liability for claims arising out of taxes paid on federal retirement income received during the 1985 through 1988 taxable years and dismissing any litigation as to such claims in which the taxpayer is a party. To meet the notice requirement of clause (ii) above, the taxpayer's contact with the Department to put it on notice must be documented in the Department's records.*

2. *The payments shall be made over a four-year period in annual installments and shall be disbursed by the Tax Commissioner or his designees to the taxpayers participating in the settlement as follows:*

a. *The Department shall offer each affected taxpayer an amount equal to the same percentage of the disputed refund as computed under the Federal Retiree Settlement Act. Disbursements to these taxpayers shall be limited to an amount equal to the percentage of disputed refunds and shall not include any additional amounts.*

b. *Disbursements shall be made in up to four payments, the first of which shall be made on July 31, 1996, or as soon thereafter as practical with each of the remaining three disbursements to be made on each March 31 thereafter through 1999.*

c. *Payments under the settlement program created by this act shall be to taxpayers over the same payment schedule as if the taxpayers were participating in the Federal Retiree Settlement Act, except that the initial payment shall be equal to the first two payments that the participants would have received had they participated in the Federal Retiree Settlement Act.*

d. *Any amount received by a taxpayer pursuant to this section shall be subject to debt collection pursuant to Article 21 (§ 58.1-520 et seq.) of Chapter 1 of Title 58.1.*

3. *The Tax Commissioner is authorized to order payments to be made out of the state treasury as if the amount each affected taxpayer is entitled to receive pursuant to this act is a refund pursuant to § 58.1-309.*

4. *A taxpayer is hereby authorized, for purposes of the settlement created by this act, to sign on behalf of a spouse with whom he or she jointly filed an income tax return for a taxable year to which the settlement is related. By signing the agreement to settle the claim on behalf of both spouses, the signing taxpayer thereby agrees to indemnify the Commonwealth for any amounts related to the settlement payments that it may be required to pay under the law to the nonsigning spouse.*

5. *The Tax Commissioner is authorized to enter into such contracts or execute such instruments or agreements as may be necessary (i) to effect compromise or settlement of disputed refund claims through creation of a trust or other legal entity or (ii) to obtain administrative or investment services relevant to any such settlement or compromise. Any such contracts or agreements for services shall be approved by the Attorney General and shall be exempt from the provisions of the Virginia Public Procurement Act (§ 11-35 et seq.).*

6. *Except and to the extent specifically authorized in this act, nothing in this act shall be construed or interpreted to revive any claim barred by Chapter 5 of the 1994 Acts of Assembly, Special Session I, and nothing in this act shall be construed or interpreted to authorize any taxpayer to be entitled to the relief granted in the Harper litigation.*

2. *That an emergency exists and this act is in force from its passage.*