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## HOUSE BILL NO. 2038

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws  
on January 31, 2013)

(Patron Prior to Substitute—Delegate Jones)

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

**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 to the City of Hampton 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 shall be determined as follows: ~~the total assessed value of all real property interests in the Authority's Area of Operation, public and private as provided by law, (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, 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; (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 owed to the City of Hampton from taxpayers within the Authority's Area of Operation, minus the amount of the real estate taxes that otherwise would be due on real property owned by the National Park Service or the City of Hampton, or exclusively used and controlled by the National Park Service, and any real property remaining under the ownership of the federal government. This shall be the amount of the fee payable 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 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. 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 of § 2.2-2342 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 in parity with liens for unpaid taxes and may be collected by the City of Hampton as taxes are collected; however, no real property of the Commonwealth or the Authority may be sold in such collection efforts.~~

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

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**60** *owners or lessees in the city.*