

DEPARTMENT OF TAXATION

2020 Fiscal Impact Statement

1. **Patron** Roxann L. Robinson

3. **Committee** House Finance

4. **Title** Individual income tax; Subtraction for retirement income of certain federal employees

2. **Bill Number** HB 676

House of Origin:

X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would provide an individual income tax subtraction equal to 20 percent of the federal Civil Service Retirement System ("CSRS") benefits received by a taxpayer each taxable year.

This bill would be effective for taxable years beginning on and after January 1, 2020.

6. **Budget amendment necessary:** Yes.

Item(s): Page 1, Revenue Estimates

7. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

7b. **Revenue Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2020-21	(\$95.1 Million)	GF
2021-22	(\$63.4 Million)	GF
2022-23	(\$63.3 Million)	GF
2023-24	(\$63.3 Million)	GF
2024-25	(\$63.3 Million)	GF
2025-26	(\$63.2 Million)	GF

8. **Fiscal implications:**

Administrative Costs

The Department of Taxation ("the Department") considers implementation of this bill as routine, and does not require additional funding.

Revenue Impact

This bill would have a negative General Fund revenue impact of \$95.1 million in FY 2021, \$63.4 million in FY 2022, \$63.3 million in FY 2023, \$63.3 million in FY 2024, \$63.3 million in FY 2025, and \$63.2 million in FY 2026. According to data from the U.S. Office of

Personnel Management, in Federal Fiscal Year 2019 there were 113,617 CSRS retirees living in Virginia receiving CSRS income of approximately \$5.9 billion. The average pension for such retirees was estimated to be \$52,319.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Federal Retirement System

There are currently two separate retirement systems for federal employees, CSRS, and the Federal Employees Retirement System ("FERS"). From 1920 through 1986, CSRS was the only retirement system available to federal employees. Beginning in 1987, FERS replaced CSRS as the federal retirement system. Most employees hired after December 31, 1983 and all employees hired after December 31, 1986 are covered by FERS. Federal employees in CSRS were given the option to either stay in CSRS or join FERS. If employees opted to switch to FERS, this choice was irrevocable.

Federal employees that are covered by CSRS are not required to pay Social Security taxes and, therefore, are not eligible to receive Social Security benefits. In contrast, because employees under FERS are required to pay Social Security taxes and FERS pension benefit is generally smaller when compared to the benefit under CSRS, FERS retirees generally qualify for Social Security.

Virginia Taxation of Retirement and Social Security Benefits

Virginia taxes federal CSRS income in the same manner as all other pension plan income. Under current law, Virginia provides a subtraction for Social Security income. As CSRS retirees do not receive Social Security, they do not benefit from the Virginia subtraction for Social Security income. Because Virginia taxes pension plan income uniformly, regardless of the source, this treatment is nondiscriminatory. During 2015, the taxation of CSRS income was litigated and upheld by a Virginia court in *Beisel v. Dep't of Taxation*. Specifically, the court in *Beisel* held that Virginia's taxation of CSRS income does not violate federal law because "[n]on-Social Security retirement income is taxed in the same manner, regardless of its state or federal source."

Other Virginia Tax Benefits for Retirees

Taxpayers age 65 and older may claim an additional \$800 personal exemption. Certain taxpayers may also qualify for an age deduction of up to \$12,000. For taxpayers born on or before January 1, 1939, the amount of the age deduction is \$12,000. For taxpayers born after January 1, 1939, who have attained the age of 65, the amount of the age deduction is means-tested. Accordingly, the \$12,000 age deduction is reduced dollar-for-dollar for single taxpayers whose income exceeds \$50,000 and for married taxpayers whose combined income exceeds \$75,000.

Other States

According to the National Active and Retired Federal Employees Association, of the 41 states that impose an individual income tax nine states (Alabama, Hawaii, Illinois, Louisiana, Massachusetts, Mississippi, Nebraska, New York, and Pennsylvania) completely exempt civil service annuities (which includes both CSRS and FERS pension amounts). Five other states (Kentucky, Michigan, North Carolina, Oklahoma, and Oregon) exempt civil service annuities in limited circumstances.

Proposed Legislation

This bill would provide an individual income tax subtraction equal to 20 percent of the federal CSRS benefits received by a taxpayer each taxable year.

This bill would be effective for taxable years beginning on and after January 1, 2020.

Similar Bills

House Bill 243 would provide an income tax subtraction for the annual retirement compensation received by veterans for their service.

House Bill 125 and **Senate Bill 456** would provide an income tax subtraction for all military retirement income received by a veteran who has been rated with 100-percent service-connected, permanent, and total disability, and whose federal adjusted gross income is no greater than 150 percent of the federal poverty level for a four-person household.

Senate Bill 191 would provide an individual income tax subtraction for income received by active duty military and military retirement income.

cc : Secretary of Finance

Date: 1/19/2020 RWC
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