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SENATE BILL NO. 1132

Offered January 9, 2013

Prefiled January 9, 2013

A BILL for the relief of Bennett Barbour.

Patron—McEachin

Referred to Committee on Finance

Whereas, on April 14, 1978, Bennett Barbour (Mr. Barbour) was convicted of rape and was sentenced on April 28, 1978 to 10 years for rape; and

Whereas, in 1978, Mr. Barbour was also convicted of unrelated burglary and larceny offenses and on April 17, 1978 was sentenced to serve five years for burglary and three years for grand larceny; and

Whereas, Mr. Barbour served time from February 15, 1978 to June 23, 1982 and then re-entered prison from September 3, 1985 until March 26, 1987; and

Whereas, Mr. Barbour served a total of five years and eleven months, and using the quarter-time calculation for parolees, two years can be attributed to the burglary and grand larceny convictions and the remaining 3 years and eleven months attributed to his rape conviction; and

Whereas, in 2010 the Virginia Department of Forensic Science conducted DNA analysis on evidence from the rape which failed to identify Mr. Barbour's DNA and instead implicated a convicted rapist; and

Whereas, on May 24, 2012, Mr. Barbour was granted a writ of actual innocence by the Virginia Supreme Court, formally clearing him of the rape; and

Whereas, Mr. Barbour has no other means to obtain adequate relief except by action of this body; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. § 1. That there is hereby appropriated from the general fund of the state treasury the sum of \$162,844 for the relief of Bennett Barbour (Mr. Barbour) upon execution of a release by Mr. Barbour from any present or future claims Mr. Barbour may have against the Commonwealth or any agency, instrumentality, office, employee, or political subdivision thereof and any legal counsel appointed pursuant to § 19.2-159 of the Code of Virginia.

The compensation, subject to the execution of the release described herein, shall be paid as follows: (i) an initial lump sum of \$32,569 to be paid to Mr. Barbour by check issued by the State Treasurer on warrant of the Comptroller within 60 days immediately following the execution of such release and (ii) the sum of \$130,275 to purchase an annuity no later than September 30, 2013, for the primary benefit of Mr. Barbour with the terms of such annuity structured in Mr. Barbour's best interests based on consultation among Mr. Barbour or his representatives, the State Treasurer, and other necessary parties.

The State Treasurer shall purchase the annuity at the lowest cost available from any A+ rated company authorized to sell annuities in the Commonwealth, including any A+ rated company from which the State Lottery Department may purchase an annuity. The annuity shall provide that it shall not be sold, discounted, or used as securitization for loans and mortgages. The annuity shall, however, contain beneficiary provisions providing for the annuity's continued disbursement in the event of Mr. Barbour's death.

§ 2. That Mr. Barbour shall immediately be ineligible to receive any unpaid amounts from the compensation and his beneficiaries shall be ineligible to receive any payments under the annuity purchased pursuant to § 1 of this act upon any conviction on or after January 1, 2013, of Mr. Barbour for any felony. Any unpaid amounts remaining under the annuity shall become the property of the Commonwealth and shall be deposited into the general fund of the state treasury.

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

INTRODUCED

SB1132