

1995 SESSION

INTRODUCED

LD3340160

HOUSE BILL NO. 1492

Offered January 11, 1995

A BILL for the relief of Ola Mae Wenzel.

Patron—Cooper

Referred to Committee on Claims

Whereas, in March, 1989, the United States Supreme Court ruled in Davis v. Michigan that the state's practice of taxing federal pensions while exempting state workers' pensions was unconstitutional; and

Whereas, the Commonwealth of Virginia was among 23 states faced with changing its income tax laws on retirement; and

Whereas, in a April, 1989, Special Session, the General Assembly repealed the exemption for VRS retirement benefits so that the Commonwealth's federal and state retirees would be taxed equally; and

Whereas, the Special Session did not address the issue of refunding the taxes paid by federal retirees between 1985 and 1988, which prompted the filing of Harper v. Commonwealth of Virginia on May 31, 1989; and

Whereas, in an effort to bring closure to the case for all the parties involved, on July 8, 1994, the General Assembly set in motion the settlement process with regard to the Harper litigation by passing Senate Bill 2008; and

Whereas, Senate Bill 2008, which was signed into law on July 13, required the Department of Taxation to send tax overpayment notices to retirees and begin a public notification program on August 1, 1994; and

Whereas, November 1, 1994, was the deadline for all federal retirees to respond to the August 1, 1994, notice in order to preserve their rights to recover any Virginia taxes paid on federal retirement income for taxable years 1985 through 1988; and

Whereas, Ola Mae Wenzel is a recent widow, whose husband was a federal retiree and unlawfully taxed on his federal pension by the Commonwealth during the taxable years 1985 through 1988; and

Whereas, Ola Mae Wenzel received notice of her husband's tax overpayment from the Department of Taxation; and

Whereas, Mrs. Wenzel has been under extreme mental, emotional, and physical stress during the ninety day period allowed her under law to respond to the original notice due to the loss of her husband and stepson and the serious and life-threatening illnesses of several of her immediate family members; and

Whereas, Mrs. Wenzel has been under medication for high blood pressure and severe depression, which has caused her to have memory loss and has impaired her ability to make sound and just decisions; and

Whereas, Mrs. Wenzel realized, just four days after the November 1st deadline that there was a deadline and that she had missed it; and

Whereas, Mrs. Wenzel lives on a very small income, and receiving the money which her husband paid to the Commonwealth in unlawful taxes is very important to her; and

Whereas, Ola Mae Wenzel has no other means to obtain a refund of the taxes paid by her husband, 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 amount of \$ 2,604 to be paid by check issued by the State Treasurer on warrant of the Comptroller to Ola Mae Wenzel, upon a release by her of all claims against the Commonwealth and its political subdivisions, agencies, instrumentalities, officers, or employees arising out of the aforesaid occurrence.

INTRODUCED

HB1492