

LD3341172

## HOUSE BILL NO. 1592

Offered January 11, 1995

*A BILL for the relief of William K. and Emma S. Hunzeker.*

Patron—Cox

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 twenty-three states faced with changing its income tax laws on retirement; and

Whereas, in an April 1989 Special Session, the General Assembly repealed the exemption for VRS retirement benefits so that the Commonwealth's federal and state retirees would be taxed equally; and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, 1994, 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, William K. and Emma S. Hunzeker are federal retirees and were unlawfully taxed on their federal pensions by the Commonwealth during the taxable years 1985 through 1988; and

Whereas, the Hunzeker family received notice of their tax overpayment from the Department of Taxation; and

Whereas, on August 3, 1994, the Hunzeker family signed and dated the form FR1, accepting the Department of Taxation's calculations of the refund owed to them; and

Whereas, on August 4, 1994, the Hunzeker family mailed the form at a mailbox located at the intersection of Route 10 and Route 301; and

Whereas, William Hunzeker was informed by the Department of Taxation on December 27, 1994, that they could not participate in the settlement program because the Department of Taxation had no record of ever receiving their form FR1; and

Whereas, William K. and Emma S. Hunzeker have no other means to obtain their tax refund, 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 \$ 10,249.00 to be paid by check issued by the State Treasurer on warrant of the Comptroller to William K. and Emma S. Hunzeker, upon a release by them of all claims against the Commonwealth and its political subdivisions, agencies, instrumentalities, officers, or employees arising out of the aforesaid occurrence.

INTRODUCED

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