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HOUSE BILL NO. 195

Offered January 10, 1996

A BILL for the relief of Stephen R. and Yoko M. Bennett III.

Patrons—Ingram; Senator: Quayle

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Whereas, in an April 1989 Special Session, the General Assembly repealed the exemption for Virginia Retirement System (VRS) retirement benefits so that the Commonwealth's federal and state retirees would be taxed equally; and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, in an effort to provide relief for retired federal and military taxpayers who were denied participation in the settlement process established by Senate Bill 2008, the General Assembly in the 1995 Session enacted House Bill 1564 and Senate Bill 831, which were signed in to law on March 14, 1995; and

Whereas, House Bill 1564 and Senate Bill 831 provided that retired federal and military taxpayers who failed to provide necessary information or missed the applicable deadlines, due to circumstances beyond their control, could file the necessary forms or documents within the 60-day period following their enactment; and

Whereas, Stephen R. and Yoko M. Bennett III are federal retirees and were unlawfully taxed on their federal pensions by the Commonwealth during the taxable years 1985 through 1988; and

Whereas, the Bennetts were residing in Korea during the period and had no knowledge of the enactment of Senate Bill 2008; and

Whereas, the Bennetts did not receive notice of their tax overpayment from the Department of Taxation; and

Whereas, when the Bennetts returned to the Commonwealth and learned of the settlement program, they were denied participation in the settlement program because they had not returned their form FR1 by the November 1, 1994, deadline; and

Whereas, the Bennetts had no knowledge of the 60-day period for filing forms or documents established by House Bill 1564 and Senate Bill 831, and did not file the appropriate forms prior to the May 15, 1995, expiration of the additional 60-day period; and

Whereas, the amount of the tax overpayment made by the Bennetts in the period 1985 through 1988 is \$2,046, and the amount of the tax refund which the Bennetts would have received if they had participated in the settlement program is \$1,566.12; and

Whereas, Stephen R. and Yoko M. Bennett III 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 \$1,566.12 to be paid by check issued by the State Treasurer on warrant of the Comptroller to Stephen R. and Yoko M. Bennett III, 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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