

State of Arkansas

77th General Assembly

A Bill

HOUSE BILL

Third Extraordinary Session, 1989

CALL ITEM

1078

By: Representatives Hutchinson, Barclay,
and McJunkin

For An Act To Be Entitled

"AN ACT TO ENTITLE CERTAIN RESIDENTS TO A REFUND OF ARKANSAS
INCOME TAX PAID ON THE FIRST SIX THOUSAND DOLLARS (\$6,000) OF
CERTAIN RETIREMENT PAY; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1.

(a) If the Chancellor hearing *Bosnick_v._Pledger*, #89-1451, orders the Department of Finance and Administration to refund Arkansas income tax paid on federal retirement income and the Department of Finance and Administration does not appeal the Chancellor's order, then:

(1) Every person who has paid Arkansas income tax for income years 1986, 1987, or 1988 on retirement income or disability benefits resulting from employment with another state or political subdivision of another state or the United States or any district or territory of the United States, and who did not receive an exemption from Arkansas income tax for the retirement income or disability benefits shall be entitled to a refund of the Arkansas income tax paid on the first six thousand dollars (\$6,000) of the retirement income or disability benefits received during those income years, provided that they would have been entitled to an exemption had the retirement income or disability benefits resulted from employment with the State of Arkansas, and

(2) Every person who has paid Arkansas income tax for income year 1985 on retirement income or disability benefits resulting from employment with another state or political subdivision of another state or the United States or any district or territory of the United States, and who did not receive an exemption from Arkansas income tax for the retirement income or disability benefits received during that income year, shall be entitled to a refund of the Arkansas income tax paid on the first six thousand dollars (\$6,000) of the retirement income or disability benefits received during income year 1985,

provided that they would have been entitled to an exemption had the retirement income or disability benefits resulted from employment with the State of Arkansas, and provided that they have filed an amended Arkansas income tax return as prescribed by law or otherwise perfected their rights as prescribed by the Chancellor.

(b) Unless otherwise ordered by the court, the refund provided for in Subsection (a) of this section shall be accomplished as follows:

(1) Refunds based on income year 1985 shall be dispersed no later than December 30, 1990;

(2) Refunds based on income year 1986 shall be dispersed no later than December 30, 1991;

(3) Refunds based on income year 1987 shall be dispersed no later than December 30, 1992; and

(4) Refunds based on income year 1988 shall be dispersed no later than December 30, 1993.

SECTION 2.

(a) If the Chancellor hearing *Bosnick_v._Pledger*, #89-1451, orders the Department of Finance and Administration to refund Arkansas income tax paid on federal retirement income, and the Department of Finance and Administration appeals the Chancellor's order, and the appellate court upholds the refund, then upon conclusion of the appellate process every person who has paid Arkansas income tax for income years 1985, 1986, 1987, or 1988 on retirement income or disability benefits resulting from employment with another state or political subdivision of another state or the United States or any district or territory of the United States, and who did not receive an exemption from Arkansas income tax for the retirement income or disability benefits shall be entitled to a refund of the Arkansas income tax paid on the first six thousand dollars (\$6,000) of the retirement income or disability benefits received during those income years, provided that they would have been entitled to an exemption had the retirement income or disability benefits resulted from employment with the State of Arkansas.

(b) Unless otherwise ordered by the court, the refund provided for in Subsection (a) of this section shall be made within ninety (90) calendar days after the effective date of this Act if the taxpayer filed an amended Arkansas income tax return prior to the effective date of this Act or within ninety

(90) calendar days after the filing of an amended Arkansas income tax return as prescribed by law.

SECTION 3. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 4. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 5. EMERGENCY. It is hereby found and determined by the General Assembly that certain inequities have evolved through the years concerning the taxation of retirement and disability income in this state; that such inequities have no just or sound basis; that it is in the best interest of the State of Arkansas to entitle certain residents to a refund of Arkansas income tax paid on the first six thousand dollars (\$6,000) of retirement income for the income years of 1985, 1986, 1987, and 1988; that this issue is before the Pulaski County Chancery Court at this time; and that if the Chancellor orders the Department of Finance and Administration to refund Arkansas income tax paid on federal retirement income, this Act shall go into effect on the date of the Chancellor's ruling in order to avoid continued potential legal cost to taxpayers under the current tax structure. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after the date the Chancellor hearing *Bosnick_v._Pledger*, #89-1451 orders a refund of Arkansas income tax paid on federal retirement income.