

IRETON-Testimony SB0695.pdf

Uploaded by: Joseph Ireton

Position: FAV

TESTIMONY

DATE: February 27, 2023

TO: Senate Budget and Taxation Committee

FROM: Joseph P. Ireton

SUBJECT: Senate Bill 695-State Retirement and Pension System - Military Service Credit

My name is Joseph Ireton and I have lived in Jarrettsville, Maryland (District 7) for almost 10 years since retiring from the United States Navy with twenty-four years of faithful and honorable service. I graduated from the United States Naval Academy and was a Naval Aviator having served in numerous military operations including Operations Iraqi Freedom and Enduring Freedom. My family and I relocated to Maryland from Florida after my retirement to accept a position with the Maryland State Police as a Civilian Helicopter Pilot. I am currently the Aviation/Pilot Safety Officer and manage the Maryland State Police Aviation Command Safety Management Section in addition to my current duties as a Pilot in Command.

I am writing to you to offer my testimony in support of Senate Bill 695 State Retirement and Pension System - Military Service Credit sponsored by Senator Jennings. The Maryland State Retirement Agency (MRSA) will grant up to five years of state retirement credit for military service to employees with at least ten years of creditable state service, provided that military time is not used in another retirement system, such as a military pension. I submitted my application for retirement credit in August 2022, requesting four years for military service as a Midshipman at the United States Naval Academy from July 3, 1989, until graduation on May 26, 1993. During this period, I was on continuous active duty in the United States Navy. In accordance with United States Codes, Title 10 Section 101 (d), Title 37 Section 101 (18), and Title 38 Section 101 (21) (D), all define "active duty" to mean full-time duty in the active military service of the United States, including full-time attendance, while in the active service, at a school designated as a service school by law or by the Secretary of the military department concerned. The United States Naval Academy is appropriately designated a Navy service school pursuant to United States Code, Title 10 Section 6951. This definition of military service is also defined in Maryland Code, Public Safety 13-704.1. I am not eligible to receive credit for this period of military service from any other retirement system as required by this application with the MSRA. In accordance with Section 971 of Title 10, United States Code, midshipman service at a service academy (Naval Academy) is not creditable toward a military retirement for a member retiring under Section 8911, Title 10, which refers to commissioned officer retirement. This is recognized by the federal government, and if employed by such, the Federal Employees Retirement System (FERS) allows that time at a service academy to be credited toward a federal civil service retirement even if you are getting an active-duty retirement since the time spent at a service academy is not counted as part of a military retirement.

My application to MSRA was denied based on their definition that military service is based on "enlistment into the armed forces of the United States" in accordance with Maryland Code, State Personnel and Pensions 38-101. Since I was not "enlisted" this does not qualify despite the contradictory requirement on the application form (*MSRA Form 43, Claim of Retirement Credit for Military Service*)

which only states "Active Duty in the Armed Forces of the United States" as a qualification for the credit. If they are claiming that the credit is only available to those who "enlisted", how do they justify the numerous commissioned and warrant officers who have also claimed and are receiving this credit now? MSRA's argument is that the state of Maryland only recognizes military service if you enlisted in the military. However, in Maryland Code, Public Safety 13-704.1, the state of Maryland defines "attendance while at a school designated as a service school by federal law or by the secretary of the military department concerned" as military service. As previously mentioned, the United States Naval Academy is designated a Navy service school pursuant to United States Code, Title 10 Section 6951. **According to this, the state of Maryland does recognize time spent at a service academy to be military service, thus this meets the requirement as stipulated in my application for retirement credit for military service since I was on "active duty in the Armed Forces of the United States" as stated on page two of MSRA Form 43, Claim of Retirement Credit for Military Service.**

Another disconcerting aspect of this policy is that in accordance with Maryland Code, State Personnel and Pensions 38-104, it states that a person "may not receive credit for that military service if the individual receives credit for military service from another retirement system for which retirement benefits have been or will be received by the individual". There are tens, if not hundreds of state employees who have applied and received this credit **before** they retired from the military, while serving concurrently in the Guard or Reserves during their time as a state employee. These individuals are using those five years in both their state and military retirement. I know this for a fact because I work with numerous retired Guard and Reserve members of the military, who have not retired from the state yet, and are receiving five years of credit toward their state retirement as well as in their military pension. How is this fair and not discriminating?

Bottom line, the current MRSA policy for state retirement credit for military service is confusing in their definition of military service, unfair, and discriminating. I urge you to support Senate Bill 695 to provide more clarity to military service while attending a United States service academy.

Thank you very much for your time and consideration regarding this legislation. For your information, I have also attached some supporting documentation for your review.

Please feel free to contact me by telephone at 410-599-1092 or email at joeireton93@gmail.com

Very respectfully,



Joseph P. Ireton

Enclosures (5):

Response Letter from Maryland State Retirement Agency
Maryland State Retirement Agency Form 043
Maryland Code, State Personnel and Pensions 38-101
Maryland Code, State Personnel and Pensions 38-104
Maryland Code, State Public Safety 13-704.1



STATE RETIREMENT AGENCY
120 East Baltimore Street
Baltimore, MD 21202-6700

MARYLAND
STATE RETIREMENT
and PENSION SYSTEM

410-625-5555 • 1-800-492-5909
TTY Users: call via Maryland Relay
sra.maryland.gov

Aug 30, 2022

JOSEPH IRETON
2002 GEORGEANNA CT
JARRETTSVILLE, MD 21084

ID: 77221221181

Dear Member:

Thank you for contacting the Maryland State Retirement and Pension System regarding your military of service request. We are unable to process your claim at this time for the reason(s) listed below:

The granting of credible service for military service under SPP §38- 104 depends on a finding that the member performed military service as defined by SSP §38-101(d). This provides several types of activities that are considered military service. However, in this instance the only definition of military service that could be applicable to the attendance at a U.S. military academy is "enlistment into the armed forces of the United States."

Upon appointment, the cadet must sign agreement with respect to the cadet's length of service in the Navy. This agreement requires the cadet to complete instruction at the academy and upon graduation, accept an appointment as a commissioned officer of the Navy. While cadet's sign an agreement to serve in the Navy, their "commissioned service obligation" does not begin until after they graduate from the Academy. Moreover, cadets do not sign enlistment contracts.

At the time, you were not enlisted or commissioned to serve in the military while you were enrolled in the Academy, the Agency can reasonably take the position that attendance at the U.S. military academy is not "enlistment in the U.S. armed forces. Because this is the standing that the MSRA takes based on our guidelines, we are unable to grant your and cadet time that you have submitted,

If you have any questions or need additional information, please contact a Retirement Benefits Specialist by dialing 410-625-5555 or toll free at 1-800-492-5909.

Sincerely,

Jonathan Elliott, Supervisor

Membership Maintenance Unit

Important Points To Know...

when filing the

Claim of Retirement Credit for Military Service (Form 43)

Please review the following information in regard to requesting retirement credit for military service. If you need assistance, please call 410-625-5555 or 1-800-492-5909.

- Retirement credit for military service must be claimed prior to retirement. Retirees are not eligible to make a claim for retirement credit for their military service.
- Completion of a *Claim of Retirement Credit for Military Service (Form 43)* does not automatically grant you additional retirement service.
- Allow 30-45 days for the Maryland State Retirement Agency to review and process your claim. You will be notified in writing regarding the outcome of your claim.
- Once retirement credit for military service has been added to your membership record, it cannot be removed.
- You may **not** receive retirement credit for military service if you will receive credit for the same military service under any other pension system. This restriction includes military pensions, but does not apply to benefits paid under Social Security, the National Railroad Retirement Act, or to any National Guard, Reserve or disability pension.*
- Military service that may qualify for retirement service credit:
 - Inactive duty in the National Guard or in a reserve component of the Armed Forces of the United States
 - Active duty/active duty training in any reserve unit or guard unit which occurred prior to your date of enrollment
 - Active duty in the Armed Forces of the United States**
- A maximum of five years of retirement credit can be granted for military service that preceded membership.
- In order to claim retirement credit for military service that preceded membership, you must have 10 years of creditable service earned through employment as a member of the state system.

* Disability payments from the Department of Veterans Affairs are not included, as they are not from a pension or retirement system.

Continued on following page.

The Maryland State Retirement and Pension System
120 East Baltimore Street · Baltimore, MD 21202-6700

sra.maryland.gov

Important Points to Know when filing the *Claim of Retirement Credit for Military Service* (Form 43)

Continued from previous page.

- A maximum of five years of military credit can be granted for military service that interrupted membership.**
- To claim retirement credit for military service that interrupted your membership you must return to work within one year of your discharge from active duty or training and not accept any other permanent employment between your date of discharge and your return to work date.
- When applying for military service credit that interrupted membership, please provide a document from your employer confirming the date that you returned to employment.
- Along with the *Claim of Retirement Credit for Military Service* (Form 43), please include the appropriate documentation to support your military service:
 - DD-214
 - Documentation of your retirement points history
 - Certified orders
 - NGB-23 or similar form
- If you cannot locate your military documentation please visit www.archives.gov/veterans. For Maryland National Guard members, please call 410-576-6000. For all other National Guard members, please contact the Military Personnel office of the Guard headquarters in the state in which you were last a Guard member.
- For additional information on Military Service Credit, please see your benefits handbook located at: <http://sra.maryland.gov/Participants/Members/Downloads/BenefitHandbooks.aspx> or the Guide to Military Service Pamphlet at: <http://sra.maryland.gov/Participants/Members/Downloads/GuideToMilitaryService.pdf>.

** There is an exception for members that meet the Uniformed Services Employment and Reemployment Rights Act (USERRA) guidelines.

2013 Maryland Code

STATE PERSONNEL AND PENSIONS

§ 38-101 - Definitions

Universal Citation: MD State Pers & Pens Code § 38-101 (2013)

§38-101.

(a) In this subtitle the following words have the meanings indicated.

(b) "Accumulated contributions":

(1) when used in relation to a State system, has the meaning stated in § 20-101 of this article;
and

(2) when used in relation to a local retirement or pension system, has the meaning most closely analogous to the meaning stated in § 20-101 of this article within the context of the local retirement or pension system.

(c) "Member":

(1) when used in relation to a State system, has the meaning stated in § 20-101 of this article;
and

(2) when used in relation to a local retirement or pension system, has the meaning most closely analogous to the meaning stated in § 20-101 of this article within the context of the local retirement or pension system.

(d) "Military service" means:

(1) induction into the armed forces of the United States for training and service under the Selective Training and Service Act of 1940 or a subsequent act of a similar nature;

(2) membership in a reserve component of the armed forces of the United States:

(i) on active duty or ordered or assigned to active duty; or

(ii) on active duty for training or inactive duty for training that interrupts a member's service;

(3) enlistment into the armed forces of the United States;

(4) membership in the Maryland National Guard; or

(5) with respect to a person separated from employment on or after July 1, 1991, active duty with the commissioned corps of the Public Health Service, the National Oceanic and Atmospheric Administration, or the Coast and Geodetic Survey from:

(i) December 7, 1941, to December 31, 1946, both inclusive;

(ii) June 25, 1950, to January 31, 1955, both inclusive; or

(iii) December 22, 1961, to May 7, 1975, both inclusive.

(e) "Regular interest":

(1) when used in relation to a State system, has the meaning stated in § 20-101 of this article;
and

(2) when used in relation to a local retirement or pension system, has the meaning most closely analogous to the meaning stated in § 20-101 of this article within the context of the local retirement or pension system.

(f) "State or local retirement or pension system" means a retirement or pension system operated under the laws of the State or a political subdivision of the State.

(g) "State system" means a retirement or pension system that is included in the State Retirement and Pension System under § 21-102 of this article other than the Legislative Pension Plan except to the extent provided by the joint resolution submitted to the General Assembly by the General Assembly Compensation Commission under Article III, § 15 of the Maryland Constitution.

2010 Maryland Code

STATE PERSONNEL AND PENSIONS

TITLE 38 - ADDITIONAL SERVICE CREDIT PROVISIONS

Subtitle 1 - Military Service Credit

Section 38-104 - State service credit for military service.

§ 38-104. State service credit for military service.

(a) Scope.-

(1) This section applies to an individual who is:

(i) a member of a State system; or

(ii) a former member of a State system who is eligible to receive a benefit under § 29-302 or § 29-303 of this article.

(2) This section does not apply to a retiree of a State system.

(b) In general.- Except as provided in subsection (c) of this section, an individual described in subsection (a) of this section, who has not met the conditions set forth in § 38-103(a)(2) through (4) of this subtitle, is entitled to receive service credit for military service only on the attainment of 10 years of creditable service.

(c) Limitations.-

(1) An individual described in subsection (a) of this section may not receive credit for that military service if the individual receives credit for military service from another retirement system for which retirement benefits have been or will be received by the individual.

(2) Paragraph (1) of this subsection does not apply to:

(i) credit for military service provided under:

1. the Social Security Act;

2. the National Railroad Retirement Act; or

3. Title 3 or Title 10, Chapter 1223, §§ 12731 through 12737 of the United States Code; or

(ii) disability payments from a pension or retirement system.

(3) (i) Military service credit under this section may not exceed 5 years.

(ii) Subject to subparagraph (i) of this paragraph, a member of the Maryland National Guard who has not been activated under Title 10 of the United States Code, shall receive service credit at the rate of 4 months for each full year of service with the Maryland National Guard, not to exceed a total of 36 months.

(d) Accrual rate.- The service credit for military service that an individual receives under this section shall be applied to the individual's retirement allowance using the accrual rate in effect at the time the individual retires from a State system.

[An. Code 1957, art. 65, § 88; 1994, ch. 6, § 2; 1995, ch. 3, § 1; 1996, ch. 618, § 2; 2000, ch. 699; 2001, ch. 29, § 1; 2003, ch. 76; 2004, ch. 454; 2006, ch. 277, §§ 1, 2.]

2020 Maryland Statutes

Public Safety

Title 13 - Militia

Subtitle 7 - Active Duty or Training

Section 13-704.1 - Civil Relief for Military Service Members

Universal Citation: MD. Public Safety Code Ann. § 13-704.1 (2020)

(a) (1) In this section the following words have the meanings indicated.

(2) "Military service" means:

(i) in the case of a service member who is a member or reserve member of the Army, Navy, Air Force, Marine Corps, or Coast Guard, full-time duty in the active military service of the United States, including:

1. full-time training duty;

2. annual training duty; and

3. attendance while at a school designated as a service school by federal law or by the secretary of the military department concerned;

(ii) in the case of a member or reserve member of the Maryland National Guard, service under a call to:

1. active service authorized by the President of the United States or the Secretary of Defense for a period of more than 30 days in response to a national emergency declared by the President of the United States; or

2. active duty for a period of more than 30 consecutive days;

(iii) in the case of a service member who is a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration, active service; or

(iv) any period during which a service member is absent from duty on account of sickness, wounds, leave, or other lawful cause.

(3) "Service member" means an individual engaged in military service.

(b) This section is intended to supplement rights and protections provided in the federal Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.).

(c) (1) In addition to the rights and protections regarding consumer transactions, contracts, and service providers included in Title III of the federal Servicemembers Civil Relief Act (50 U.S.C. App. 531 through 538), a service member may terminate a contract described in paragraph (2) of this subsection at any time after the date the service member receives military orders to relocate for a period of military service of at least 90 days to a location where the service member would be unable to use the services under the contract.

(2) This section applies to a contract to provide any of the following:

- (i) telecommunication services;
- (ii) Internet services;
- (iii) television services;
- (iv) athletic club or gym memberships; and
- (v) satellite radio services.

(3) (i) A service member may terminate a contract under this section by delivering a written or electronic notice of the termination and a copy of the service member's military orders to the service provider.

(ii) If a service member terminates a contract, the service provider shall provide the service member with a written or electronic notice of the service member's rights posted on the Maryland National Guard's Internet website.

(d) (1) A service member who terminates or suspends the provision of services under this section and who is no longer in active military service may reinstate the provision of service on the same terms and conditions as originally agreed to with the service provider before the termination or suspension on written notice to the provider that the service member is no longer in active military service.

(2) Written notice under this subsection shall be given within 90 days after termination of the service member's active military service.

(e) A service member who terminates, suspends, or reinstates the provision of services under this section:

(1) may not be charged a penalty, fee, loss of deposit, or any other additional cost because of the termination, suspension, or reinstatement; and

(2) is not liable for payment for any services after the effective date of the termination or suspension, until the effective date of any reinstatement of services.

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Uploaded by: Senator J.B. Jennings

Position: FAV

J.B. JENNINGS
Legislative District 7
Baltimore and Harford Counties

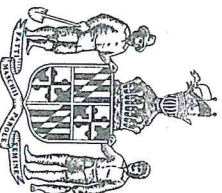
Budget and Taxation Committee

Subcommittees

Capital Budget

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The Senate of Maryland

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March 2, 2023

Testimony In Favor of Senate Bill 695

State Retirement and Pension System - Military Service Credit

Chairman Jackson & and Members of the Senate Pension Subcommittee,

I respectfully request a favorable report of Senate Bill 695, which would authorize the State Retirement and Pension Systems to allow military service credit for attendance at a United States service academy.

Currently in Maryland, the State Retirement System & Pension System denies state employees credit for any portion of their military service while attending a service academy. Service academies include; The U.S. Military Academy, U.S. Naval Academy, U.S. Air Force Academy, U.S. Coast Guard Academy, or the U.S. Merchant Marine Academy. Unlike federal regulations that allow federal workers to receive one year credit for each full year of attendance at a service academy – not to exceed 36 months, SB 695 would allow state employees to receive four months credit for each full year of attendance at a service academy – not to exceed 16 months.

As a committee, we are always looking for ways to support our veterans throughout their entire lives. This legislation extends the helping hand to veterans even further by making their lives just a little easier.

Once again, I respectfully request a favorable report for Senate Bill 695 which awards state employees with military service credit for their time while attending a United States service academy.

Witness Testimony MD Senate Bill 695 Timothy Tenne

Uploaded by: Timothy Tenne

Position: FWA

WITNESS TESTIMONY

SENATE BILL 695

Budget and Taxation Committee

The undersigned are submitting the within written testimony regarding the provisions of Senate Bill 695. The proposed changes which are contemplated by the enactment of this Bill, will impact a great many citizens of Maryland and the undersigned represent one particular individual who will be affected by the contemplated changes. The Bill itself is directed to amending the provisions of Sections 38-103 and 38-104 of the State Personnel and Pensions Article of the Annotated Code of Maryland by adding the following additional language to both of these Sections of the Maryland Code. The language that is in question is, in pertinent part, as follows:

"3. Subject to subparagraph (i) of this paragraph, an individual shall receive service credit at the rate of 4 months for each full year of attendance at a United States Service Academy, not to exceed a total of 16 months."

The regulations currently in place, along with the application by the Maryland State Retirement System with regard to Maryland state employees being able to receive credit for a portion of their military service while attending a service academy, have been and are still being applied in an arbitrary and capricious fashion. This is due to the current patchwork of the present Code and regulations which will be addressed by the enactment of Senate Bill 695, which provisions have been long overdue.

Additionally, the provisions of the United States Constitution and the 13th Amendment have preempted the interpretation of the term "military service" as applied to these provisions of the Maryland Code. The State of Maryland should revise its regulations to reflect these changes.

Second, given that the federal government has defined military service in Title 10 USC, Section 971, it has also clearly defined that time served at a military

academy is military service that is not creditable toward a military pension and thus should be part of Maryland's allowance in military service. This is further shown in federal regulations that allow federal workers to receive credit (similar, but more generous than Maryland) for military service that was not used to calculate their military pensions. Again, four years at a service academy have been clearly defined by the federal government as military service and Maryland should follow suit. Congress has felt so strongly that it has codified this definition, especially knowing that time spent at a service academy does not generate a DD-214 under federal military personnel systems.

Third, given the current interpretation of the Pension Board and the state of the code, there is the ability for Maryland National Guard personnel that also serve in an active duty and reserve federal military status for various periods to receive credit, which is inconsistent with the spirit and direction of the current law.

Fourth, there should be no distinction between enlistment and military service, as this opens the door for misinterpretations concerning these terms, which have been clearly defined by the federal government.

The provisions of Senate Bill 695 permit an individual to receive service credit at a rate of 4 months for each full year of attendance at a service academy. Clearly, military service for a full year at a service academy should entitle each individual to a full 12 months for each year of attendance, to a maximum of the full 48 months period that the individual participates in their service academy training. We would recommend that the Committee consider that this reduction in the service credits is not necessary and penalizes those persons who are entitled to receive the credit for having served their country for 4 years at a service academy.

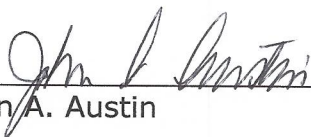
Furthermore, many other U.S. states follow similar standards that the federal government has codified for federal employees in its application in allowing personnel to apply for military service credit at the state level, while also paying for a portion of the credit.

One of the arguments against expanding and providing non-creditable military service credit is that it would be a large revenue burden to the state. The economic data of many other states that provide much higher levels of military credit clearly shows this is not the case given the number of personnel that would be allowed to

apply under this new standard. It also doesn't account for large loss in tax revenue that occurs when many military personnel choose to live and or retire in other state.

In conclusion, it is respectfully submitted to this Committee that Senate Bill 695 should be enacted with the modification in its language that service credits will be awarded at the rate of 12 months for each full year of attendance at a military service academy, as defined by 10 USC, Section 971, not to exceed a total of 48 months, and that any necessary revisions to the Maryland regulation definitions of military service and enlistment be corrected to follow the federal government regulations in this area.

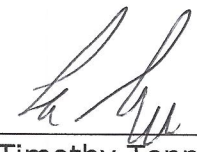
Respectfully submitted,



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