

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.

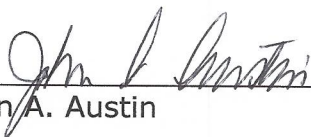
Furthermore, many other U.S. states follow similar standards that the federal government has codified for federal employees in its application in allowing personnel to apply for military service credit at the state level, while also paying for a portion of the credit.

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.

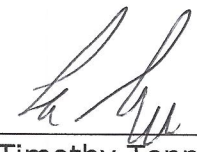
Respectfully submitted,



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