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TSA Screeners Now Finally Have Enforceable USERRA Rights

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1.1.1.8—USERRA Applies to Federal Government

1.4—USERRA Enforcement

1.8—Relationship between USERRA and other Laws/Policies

In Law Review 0637 (November 2006), I explained that Transportation Security Administration (TSA) screeners have no enforceable rights under the Uniformed Services Employment and Reemployment Rights Act (USERRA) because the legislation enacted when the TSA was established (in the immediate aftermath of the September 11, 2001 terrorist attacks) provides that these screeners are to be hired, trained, assigned, fired, etc. “notwithstanding any other law.”^[1] In that November 2006 article, I suggested a statutory fix to give TSA screeners the same USERRA rights that other federal civilian employees have.

On August 21, 2012, President Obama signed H.R. 3670. That bill is now Public Law 112-171. This new law closes this loophole. TSA screeners now have USERRA rights that are enforceable through the Merit Systems Protection Board (MSPB), just as USERRA is enforced for federal employees generally.

ROA thanks Representative Tim Walz of Minnesota and Senator Joe Lieberman of Connecticut for their leadership in drafting this legislation and shepherding it through the Congress. Representative Walz is a great friend of ROA and of the Reserve Components generally. He is retired from the Minnesota Army National Guard as a Sergeant Major (E-9) and is the highest ranking retired enlisted service member ever to serve in the United States House of Representatives.

[1] 49 U.S.C. 44935 note. Yes, notes in the United States Code are part of the enacted law and are binding.