

## LAW REVIEW 17026<sup>1</sup>

March 2017

### Please Help Preserve Hazlewood Act Educational Benefits in Texas

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Update on Sam Wright

8.0—Veterans' preference

11.0—Veterans' claims

As I explained in Law Review 17007 (January 2017), the State of Texas has provided generous higher education benefits for veterans for almost a century. The legislation that provides for this benefit is called the “Hazlewood Act” (HA) and is named for the legislator who sponsored the bill almost a century ago. The HA can currently be found at section 54.341 of the *Texas Education Code*.

A qualified veteran who has exhausted his or her federal GI Bill educational benefits is entitled to free tuition at state-supported colleges and universities in Texas, including the University of Texas (Austin and several other campuses), Texas A&M University (College Station and several other campuses), and Texas Tech (Lubbock), as well as other state universities and community colleges in Texas. To qualify, the veteran must be a current resident of Texas and must have been a resident of Texas when he or she enlisted in the armed forces. HA benefits are particularly valuable to veterans who have exhausted their federal GI Bill veterans' educational benefits

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<sup>1</sup> I invite the reader's attention to [www.roa.org/lawcenter](http://www.roa.org/lawcenter). You will find more than 1700 “Law Review” articles about military voting rights, reemployment rights, and other military-legal topics, along with a detailed Subject Index, to facilitate finding articles about very specific topics. The Reserve Officers Association (ROA) initiated this column in 1997. I am the author of more than 1500 of the articles.

<sup>2</sup> BA 1973 Northwestern University, JD (law degree) 1976 University of Houston, LLM (advanced law degree) 1980 Georgetown University. I served in the Navy and Navy Reserve as a Judge Advocate General's Corps officer and retired in 2007. I am a life member of ROA. I have dealt with the Uniformed Services Employment and Reemployment Rights Act (USERRA) and the Veterans' Reemployment Rights Act (VRRA—the 1940 version of the federal reemployment statute) for more than 34 years. I developed the interest and expertise in this law during the decade (1982-92) that I worked for the United States Department of Labor (DOL) as an attorney. Together with one other DOL attorney (Susan M. Webman), I largely drafted the proposed VRRA rewrite that President George H.W. Bush presented to Congress, as his proposal, in February 1991. On 10/13/1994, President Bill Clinton signed into law USERRA, Public Law 103-353, 108 Stat. 3162. The version of USERRA that President Clinton signed in 1994 was 85% the same as the Webman-Wright draft. USERRA is codified in title 38 of the United States Code at sections 4301 through 4335 (38 U.S.C. 4301-35). I have also dealt with the VRRA and USERRA as a judge advocate in the Navy and Navy Reserve, as an attorney for the Department of Defense (DOD) organization called Employer Support of the Guard and Reserve (ESGR), as an attorney for the United States Office of Special Counsel (OSC), as an attorney in private practice, and as the Director of the Service Members Law Center (SMLC), as a full-time employee of ROA, for six years (2009-15). Please see Law Review 15052 (June 2015), concerning the accomplishments of the SMLC. My paid employment with ROA ended 5/31/2015, but I have continued the work of the SMLC as a volunteer. You can reach me at (800) 809-9448, extension 730, or by e-mail at [SWright@roa.org](mailto:SWright@roa.org). Please understand that I am a volunteer, so I may not be able to respond to you the same day.

earning an undergraduate degree and who then seek a graduate or professional degree, like a law degree or medical degree.

The Texas Legislature is currently in session and is dealing with budget issues because the price of oil has plummeted from more than \$100 per barrel to less than half that.<sup>3</sup>

In the Texas House of Representatives, H.B. 3766 would limit HA benefits in the following ways:

- a. Would require that the veteran have served at least four years of honorable active duty, rather than 180 days required by current law. This change would particularly impact National Guard and Reserve personnel, who are typically called to active duty for about one year at a time.
- b. Would require that the veteran use his or her HA benefits within 15 years after his or her honorable discharge.
- c. Would remove the HA process from the control of the Texas Veterans Commission.

It should be noted that persons currently serving on active duty *would not be exempted or "grandfathered" from these changes*, if HB 3766 is enacted in its current form.

The Lone Star Veterans Association (LSVA) has a petition whereby Texas residents (including active duty service members who have maintained their legal residences or domiciles in Texas while serving elsewhere) can protest this effort to reduce the vital HA educational benefits. Go to <https://www.change.org/p/texas-state-house-defend-the-hazlewood-act-in-the-texas-congress>.

The small staff of the Reserve Officers Association (ROA) in Washington has its hands full monitoring and trying to affect bills in Congress. It is just not feasible for the ROA staff to monitor, much less to affect, what is going on in 50 state capitals. The state legislatures enact important legislation that affects the interests of those who serve our country in uniform, including those who serve in the Reserve Components of the armed forces. I call upon ROA departments to speak up for the interests of our members and potential members in the 50 state legislatures. I commend ROA's Department of Nebraska for appearing and testifying at a legislative hearing on LB 121, a bill to exempt military retired pay from Nebraska's state income tax.

## **UPDATE TO LAW REVIEW 17026**

### **June 2017**

The 2017 legislative session in Texas is over, and I am pleased to report that the Hazlewood Act has survived unscathed. Thank you to readers who contacted Texas legislators urging them to retain this valuable benefit for veterans and their children.

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<sup>3</sup> The price of West Texas Intermediate (a specific grade of crude oil) is now \$47.88 per barrel. See [www.bloomberg.com/energy](http://www.bloomberg.com/energy), checked on 3/26/2017.

In Texas, the legislature meets in regular session only in odd-numbered years. The next regular session will convene in January 2019. The Governor can call a special session, but during a special session the legislators can only address subjects that were included in the Governor's call. The Hazlewood Act is probably safe until the next regular session in 2019, when the issue will likely come up again, unless Texas' fiscal posture is greatly improved by then.

In my March article, I reported that the price of West Texas Intermediate (a specific grade of crude oil) was only \$47.88.<sup>4</sup> The succeeding 2.5 months have seen a slight decline, to \$47.66 per barrel.<sup>5</sup>

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<sup>4</sup> See [www.bloomberg.com/energy](http://www.bloomberg.com/energy), checked on 3/26/2017.

<sup>5</sup> Id., checked on 6/2/2017.