LAW REVIEW[1] 20065
December 2020

You Can Use the Same Active Duty Period To Qualify for Reserve Retirement at Age 60 and Civilian Job Retirement

By Captain Samuel F. Wright, JAGC, USN (Ret.)[2]

1.2—USERRA forbids discrimination
1.3.2.3—Pension credit for service time
1.8—Relationship between USERRA and other laws/policies
3.0—Reserve retirement and civilian employment

Q: I am a second-class petty officer (E-5) in the Navy Reserve and a member of the Reserve Organization of America (ROA).[3] I have read with great interest several of your "Law Review"

---

[1] I invite the reader's attention to www.roa.org/lawcenter. You will find more than 2000 "Law Review" articles about the Uniformed Services Employment and Reemployment Rights Act (USERRA), the Servicemembers Civil Relief Act (SCRA), the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), the Uniformed Services Former Spouse Protection Act (USFSPA), and other laws that are especially pertinent to those who serve our country in uniform. You will also find a detailed Subject Index, to facilitate finding articles about specific topics. The Reserve Officers Association, now doing business as the Reserve Organization of America (ROA), initiated this column in 1997. I am the author of more than 1800 of the articles.

[2] 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. For 44 years, I have worked with volunteers around the country to reform absentee voting laws and procedures to facilitate the enfranchisement of the brave young men and women who serve our country in uniform. I have also 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 38 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 by e-mail at SWright@roa.org.

[3] At its September 2018 annual convention, the Reserve Officers Association amended its Constitution to make all service members (E-1 through O-10) eligible for membership and adopted a new "doing business as" (DBA) name: Reserve Organization of America. The full name of the organization is now the Reserve Officers Association DBA the Reserve Organization of America. The point of the name change is to emphasize that our organization represents the interests of all Reserve Component members, from the most junior enlisted personnel to the most senior officers. Our nation has seven Reserve Components. In ascending order of size, they are the Coast Guard

articles about the Uniformed Services Employment and Reemployment Rights Act (USERRA) and other laws that are especially pertinent to those of us who serve or have served in the Reserve and National Guard.

I graduated from high school in 1984 and enlisted in the Navy. I served on full-time active duty for eight years. When I left active duty in 1992, I affiliated with the Navy Reserve. I served as a traditional reservist for the next 13 years, to qualify for Reserve Retirement at age 60. I received my Notice of Eligibility (NOE)[4] in 2004, 20 years after I enlisted in 1984. A few months later, in early 2005, I became a "gray area retiree" and stopped drilling.[5] I will start drawing my Navy Reserve retirement in 2026, when I turn 60.[6]

In 1995, three years after I left active duty, I began my career with an airport authority (a unit of local government) in my home state. When I started my career with the airport authority, I learned that our state law permits a local government employee to purchase civilian retirement credit for up to four years of active duty performed *before* the start of the individual's career with the local government. I inquired about purchasing four years of local government pension credit for my eight years of active duty, from 1984 until 1992. A lady in the personnel office told me that, under state law, I was precluded from purchasing local government pension credit for a period of active duty if I was using or planned to use that same active duty period to qualify for any federal retirement benefit, including Reserve Component retirement at age 60. Accordingly, I did not purchase the retirement credit in 1995, when I began my career with the airport authority.

Recently, my wife did an Internet search and found your Law Review 16091 (September 2016). If I am reading that article correctly, you wrote that it is unlawful, under federal law, for a state or local government to deny a person civilian retirement credit for a period of

---

Reserve, the Marine Corps Reserve, the Navy Reserve, the Air Force Reserve, the Air National Guard, the Army Reserve, and the Army National Guard. The number of service members in these seven components is almost equal to the number of personnel in the Active Components of the armed forces, so Reserve Component personnel make up almost half of our nation's pool of trained and available military personnel. Our nation is more dependent than ever before on the Reserve Components for national defense readiness. More than a million Reserve Component personnel have been called to the colors since the terrorist attacks of 9/11/2001.

[4] I discuss the importance of the NOE in detail in Law Review 16088 (September 2016).

[5] The statutory name for "gray area retiree" status is the "inactive status list." Section 12735 of title 10 of the United States Code provides: "(a) A member who would be eligible for retired pay under this chapter but for the fact that that member is under 60 years of age may be transferred, at his request and by direction of the Secretary concerned [the Service Secretary, Secretary of the Navy for you], to such inactive status list as may be established for members of his armed force, other than members of a regular component. (b) While on an inactive status list under subsection (a), a member is not required to participate in any training or other program prescribed for his component. (c) The Secretary may at any time recall to active status a member who is on an inactive status list under subsection (a)." 10 U.S.C. 12735.

[6] I discuss the Reserve Retirement system in detail in Law Review 1169 (August 2011) and Law Reviews 16086 through 16091 (September 2016).

active duty on the grounds that the person is received Reserve retirement credit for the same period of active duty.

At the airport authority, the most generous retirement benefits go to employees who work for 30 years or more. I have been told that, to benefit for the full retirement, I must work until 2025, 30 years after I started working for the airport authority in 1995. If I am reading your Law Review 16091 correctly, I can purchase four years of local government retirement credit for my 1984-92 active duty period and, thus, qualify for full retirement in 2021 rather than 2025.

Am I reading your Law Review 16091 correctly? Am I entitled to purchase retirement credit for my 1984-92 active duty period although I am using that same active duty period to qualify for Reserve Component retirement? If I purchase local government retirement credit for the 1984-92 active duty period, does that adversely affect my Navy Reserve retirement at age 60 in 2026?

Answer, bottom line up front:

Yes, you are reading Law Review 16091 correctly. If your state law provides for purchasing local government pension credit for a period of active duty before starting the local government career, it is unlawful under federal law for the state or local government to deny you that credit based on the fact that you are using the same active duty period to qualify for Reserve retirement. Purchasing local government retirement credit for your 1984-92 active duty period has no effect on your Navy Reserve retirement.

Federal law explicitly supersedes and overrides state "no double-dipping" rules as applied to Reserve retirement.

Section 12736 of title 10 of the United States Code provides:

> No period of service included wholly or partly in determining a person right to, or the amount of, retired pay *under this chapter* may be excluded in determining his eligibility for any annuity, pension, or old-age benefit *under any other law,* on account of civilian employment by the United States *or otherwise,* or in determining the amount payable under that law, if that service is otherwise properly creditable under it.[7]

[7] 10 U.S.C. 12736 (emphasis supplied).

Applying section 12736, the United States Court of Appeals for the 9th Circuit[8] struck down a California statute that precluded an employee from using the same active duty period for both civilian employment pension purposes and Reserve retirement purposes.[9] The 9th Circuit decision includes the following instructive paragraphs:

I

> Cantwell has been continuously employed by the County as an engineer since April 1948. He has been a member of the San Mateo County Employees Retirement Association ("Association") since 1948. The benefits Cantwell will receive and the requirements he must fulfill as a member of the Association are set forth in the County Employees Retirement Law of 1937, Cal. Gov't Code §§ 31450-31898.
>
> Prior to his employment by the County Cantwell had served on active duty in the United States Navy from January 6, 1943 to October 3, 1946, a total of 3 years, 8 months and 27 days. After leaving active Navy service, Cantwell served in the United States Naval Reserve until October 1968, the last 20 years and 6 months of which was concurrent with his County employment.
>
> Cantwell brought this action claiming that the County had denied him credit for his prior active Navy service to which he claims he was entitled under Cal. Gov't Code §§ 31641.1 and 31641.2. These sections allow members of county retirement systems to receive credit for prior public service. The County refused to allow Cantwell to receive such credit based on Cal. Gov't Code § 31641.4, which provides that credit for prior public service is to be allowed only if the employee is not entitled to receive a pension from the public agency for which the employee previously worked. Cantwell asserted that 10 U.S.C. § 1336[10] prevents the County from denying him credit for his active Navy service, despite Cal. Gov't Code § 31641.4.
>
> The district court found a conflict between the federal and the state statute, in that 10 U.S.C. § 1336 authorizes credit in both pension plans for the active service, while Cal. Gov't Code § 31641.4 denies such double credit. The court held that under the supremacy clause of the United States Constitution, art. VI, cl. 2, the federal statute must prevail; otherwise, the congressional policy of encouraging and rewarding military reserve service would be frustrated.
>
> On appeal, the County presents three arguments opposing the district court's decision that section 1336 of the federal statute must prevail. The first contention is that the language in section 1336, which requires that the service be "otherwise properly

---

[8] The 9th Circuit is the federal appellate court that sits in San Francisco and hears appeals from district courts in Alaska, Arizona, California, Commonwealth of the Northern Marianas Islands, Guam, Hawaii, Idaho, Montana, Nevada, Oregon, and Washington.

[9] *Cantwell v. County of San Mateo,* 631 F.2d 631 (9th Cir.), *cert. denied,* 450 U.S. 998 (1980).

[10] The numbering system for title 10 of the United States Code has been reorganized. The section that was numbered 1336 when *Cantwell* was decided is now numbered 12736.

credited," shows on its face that section 1336 does not apply to Cantwell's active service because it is not "properly credited" under Cal. Gov't Code § 31641.4.

In the context of interpreting statutory language, this court has recently stated: While there may be instances where the language of a statute is so lucid on a particular issue that resorting to legislative history would be inappropriate …, such a rule is not normally applicable where … the court must construe the meaning of an undefined term in a statute when the term used does not consist of words of art.

Church of Scientology v. United States Department of Justice, 612 F.2d 417, 421 (9th Cir. 1979). If the plain meaning of statutory language leads to a result contrary to or at variance with the statutory purpose, this court will look to legislative history or other extrinsic aids so that the legislative purpose may be fulfilled. Id. at 420-422.

At first glance the County's reliance on the phrase "if otherwise properly credited" appears to have merit. Such an interpretation would have the effect of rendering section 1336 meaningless, however, because it would allow any state to circumvent section 1336 merely by passing a law denying membership in a retirement system to anyone eligible to receive a reserve pension. This would frustrate the congressional purpose underlying the reserve pension system and section 1336.

We have searched in vain for pertinent legislative history of section 1336 or for any cases directly interpreting it. The purpose in enacting the overall retirement pay program for reserve personnel is clearly, however, "to provide an inducement to qualified personnel to remain active in the Reserves in order to maintain a cadre of trained soldiers for use in active duty if the need should arise." *Alexander v. Fioto*, 430 U.S. 634, 639, 97 S. Ct. 1345, 1348, 51 L. Ed. 2d 694 (1977) (footnote omitted). "One of the specific inducements to these part-time servicemen (many of whom worked for the Federal Government) was to allow them to count concurrent periods of federal civilian service and of military duty for both civilian and military retirement." *Merrill v. United States*, 168 Ct. Cl. 1, 338 F.2d 372, 375 (Ct.Cl.1964).

Adopting the County's interpretation of the language of section 1336 would undermine the purpose of the retirement pay program for reserve personnel. Congress intended that periods of service used in computing retirement pay under Chapter 67 could not be excluded from retirement programs established by other laws solely because the reservist would also receive a Chapter 67 pension. Such an intent is consistent with the language "if otherwise properly credited." We conclude that "otherwise" refers to any criteria the other pension plan may impose except for the fact that a person is receiving a pension under Chapter 67. Therefore, 10 U.S.C. § 1336 does conflict with Cal. Gov't Code § 31641.4, because section 1336 requires that double credit for Cantwell's active service be given him in both his retirement plans and section 31641.4 denies it. Having reached this conclusion, we must determine whether section 1336 prevails over the California statutes.

When federal legislation conflicts with state legislation this court has stated: State legislation must yield under the supremacy clause of the Constitution to the interests of the federal government when the legislation as applied interferes with the federal purpose or operates to impede or condition the implementation of federal policies and programs.

Rust v. Johnson, 597 F.2d 174, 179 (9th Cir.), *cert. denied*, 444 U.S. 964, 100 S. Ct. 450, 62 L. Ed. 2d 376 (1979*). See also Jones v. Rath Packing Co*., 430 U.S. 519, 525-26, 97 S. Ct. 1305, 1309-10, 51 L. Ed. 2d 604 (1977); *United States v. Brown*, 552 F.2d 817, 821 (8th Cir.), *cert. denied*, 431 U.S. 949, 97 S. Ct. 2666, 53 L. Ed. 2d 266 (1977). The military reserve retirement pay program was enacted pursuant to Congress's power to raise and maintain armies and a navy. U.S.Const. art. 1, § 8, cls. 12 and 13. Because the state statute is in conflict with the federal statute implementing that purpose, we agree with the district court that the federal legislation must prevail.

The County's second argument, which relies on *National League of Cities v. Usery*, 426 U.S. 833, 96 S. Ct. 2465, 49 L. Ed. 2d 245 (1976), is that even if section 1336 is interpreted as conflicting with the California statutes, it is invalid as an infringement of the state's rights under the tenth amendment to the United States Constitution. In *Usery* the Court considered the 1974 amendments to the Fair Labor Standards Act, which extended the Act's minimum wage and maximum hour provisions to almost all employees of states and their political subdivisions. The Court held that the amendments directly displaced "the States' freedom to structure integral operations in areas of traditional governmental functions," (i.e., the State's power to determine the wages it will pay to its employees, what hours the employees will work and how they will be compensated for overtime) and were, therefore, "not within the authority granted Congress by Art. I, § 8, cl. 3 (the Commerce Clause)." Id. at 852, 96 S. Ct. at 2474 (footnote omitted).

The Court specifically limited its holding to the power of Congress under the Commerce Clause by stating: We express no view as to whether different results might obtain if Congress seeks to affect integral operations of state governments by exercising authority granted it under other sections of the Constitution such as the spending power, Art. I, § 8, cl. 1, or § 5 of the Fourteenth Amendment. Id. at 852 n. 17, 96 S. Ct. at 2474 n. 17.

In the present case section 1336 affects the same state interest as in *Usery*, i.e., the amount of compensation county employees receive (in this instance, in the form of pension benefits). As noted above, however, the authority under which Congress enacted section 1336 is not art. I, § 8, cl. 1, it is art. I, § 8, cls. 12 and 13. This is the key distinction between this case and *Usery*. The Court in *Usery* noted that it was not overruling *Case v. Bowles*, 327 U.S. 92, 66 S. Ct. 438, 90 L. Ed. 552 (1946), in which the Court held that Congress could set maximum prices in order to carry on war even if this affected a state's sale of goods. *Usery*, 426 U.S. at 854-55 n.18, 96 S. Ct. at 2475 n.18, 49 L. Ed. 2d 245. The

Court specifically stated, "Nothing we say in this opinion addresses the scope of Congress's authority under its war power." Id.

In *Jennings v. Illinois Office of Education*, 589 F.2d 935 (7th Cir.), *cert. denied*, 441 U.S. 967, 99 S. Ct. 2417, 60 L. Ed. 2d 1073 (1979), the Seventh Circuit considered the tenth amendment objections of the State of Illinois to the provisions of the Veterans' Reemployment Rights Act, which requires states to restore employees inducted into the United States Armed Forces pursuant to the Selective Service Act to their former positions following the person's discharge. Illinois had declined to restore Jennings to his former position following his discharge on the ground that no position was open at the time. The Court found authority for the Act under the war powers contained in art. I, § 8, cls. 11-13. Id. at 937. Relying on *Case v. Bowles*, which the court noted had explicitly not been overruled by *Usery,* the Court found the grant of war powers to be sufficient to sustain a statute that might otherwise violate the tenth amendment.

We adopt the reasoning of the Seventh Circuit in *Jennings* and of the Supreme Court in *Case v. Bowles,* and conclude that *Usery* is inapposite to the present case. Although the congressional power to declare war, art. I, § 8, cl. 11 is not directly involved in the present case, the power to raise and maintain armies and a navy, art. I, § 8, cls. 12 & 13, is so closely intertwined with that power that the rationale of *Case v. Bowles* and *Jennings* applies. We find that congressional power to pass section 1336 exists under art. I, § 8, cls. 11, 12, & 13, and conclude that the constitutional grant of these powers is sufficient to sustain section 1336 against a tenth amendment challenge. We note parenthetically that California could have chosen not to afford credit for any prior public service. Having chosen to do so, however, it cannot do so in a manner which conflicts with section 1336.

The County's final argument against applicability of section 1336 is that it applies only when the reservist is employed by the Federal Government, and not when the person is employed by a state government. The County relies upon the above-quoted language of *Merrill v. United States,* 338 F.2d at 375 that one of the purposes of Chapter 67 was to allow employees "to count concurrent periods of federal civilian service and of military duty…."

This argument is without merit for several reasons. The *Merrill* court did not indicate in any way that Chapter 67 applied only to federal civilian employment. As the district court pointed out, adopting the County's argument would be ignoring the words "civilian employment by the United States or otherwise" in section 1336. Such a construction would also ignore the words "under any other law."

For all the above reasons we agree with the district court that Cantwell is entitled to receive credit in the County retirement system for his 3 years, 8 months and 27 days of active Navy service.[11]

[11] *Cantwell,* 631 F.2d at 633-37.

Applying section 12736 and *Cantwell,* the United States District Court for the District of Rhode Island struck down Rhode Island's prohibition on double-dipping as applied to Reserve retirement.[12] The United States District Court for the Eastern District of Missouri struck down Missouri's "no double dipping" law.[13] The United States District Court for the Northern District of Florida struck down Florida's rule against counting the same active duty period for both state retirement and Reserve retirement purposes.[14] Similarly, the Attorney General of Virginia acknowledged that Virginia's "no double dipping" rule could not constitutionally be applied to Reserve retirement.[15]

Q: Where does a federal court get the authority to strike down a state statute?

A: The pertinent provision in the Constitution is as follows:

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.[16]

Just 35 years after the ratification of the Constitution, the Supreme Court established, in a seminal decision, that federal statutes trump conflicting state statutes.[17] The supremacy of federal authority over state authority was further buttressed by the outcome of the Civil War. State and local government officials in your part of the country sometimes need to be reminded that General Ulysses S. Grant did not surrender to General Robert E. Lee at Appomattox Courthouse.

Q: Is section 12736 part of the Uniformed Services Employment and Reemployment Rights Act (USERRA)?

A: No. Section 12736 is different from USERRA. Under USERRA, you are entitled to be treated, for civilian pension purposes, as if you had been continuously employed in the civilian job during the entire time that you were away from that job for uniformed service[18], but only *if and when you met the five USERRA conditions for reemployment*.

---

[12] *Almeida v. Retirement Board of the Rhode Island Employees Retirement System,* 116 F. Supp. 2d 269 (D.R.I. 2000).
[13] *Dailey v. Public School Retirement System,* 707 F. Supp. 1087 (E.D. Mo. 1989).
[14] *Arrington v. Florida,* 1985 U.S. Dist. LEXIS 14131 (N.D. Fla. Nov. 5, 1985).
[15] *See* Law Review 21 (December 2000).
[16] United States Constitution, Article VI, Clause 2. Yes, it is capitalized just that way, in the style of the late 18th Century.
[17] *Gibbons v. Ogden,* 22 U.S. 1 (1824).
[18] The entire time that you were away from the job for service includes the period of service, from the day that you entered active duty in January 2014 until the day that you left active duty in January 2020. It also includes the time (perhaps days or weeks) between your last day at the civilian job and the day that you reported to active duty, as

As I explained in detail in Law Review 15016 (December 2015) and many other articles, you must meet five simple conditions to have the right to reemployment after a period when you have been away from the job for uniformed service:

a. You left a civilian job (federal, state, local, or private sector) to perform voluntary or involuntary service in the uniformed services.
b. You gave the employer prior oral or written notice that you were leaving the job to perform service.
c. Your cumulative period or periods of uniformed service, relating to the employer relationship for which you seek reemployment, must not have exceeded five years.
d. You must have been released from the period of service without having received a disqualifying bad discharge from the military.[19]
e. After release from the period of service, you must have made a timely application for reemployment.[20]

USERRA does not apply to your 1984-92 active duty period, because you did not leave a job with the airport authority to report to active duty in 1984. Federal law does not require the airport authority to give you civilian pension credit for your 1984-92 service. Section 12736 means that *if the state has chosen to credit pre-employment military service it must not discriminate against those who have chosen to continue their military service in the Reserve or National Guard after leaving full-time active duty.*

Under section 4318 of USERRA,[21] the airport authority must give you pension credit for all the periods when you were away from your airport authority job to perform uniformed service, between 1995 (when you were hired) and 2005 (when you became a gray area retiree in the Navy Reserve). This includes drill weekends, annual training periods, and voluntary or involuntary recalls to active duty. Before you retire from the airport authority, you need to ensure that all your military service periods have been properly credited for pension purposes.

Q: Does my state's "no double dipping" rule violate section 4311 of USERRA?

A: Yes. Section 4311 provides:

> (a)A person who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform service in a uniformed service shall

---

well as the time (up to 90 days) between your release from active duty and your application for reemployment. If the employer did not reemploy you immediately after your application, the period of delay also counts toward your time away from work for service. Please see Law Review 19108 (December 2019).

[19] If you receive a punitive discharge by court martial or administrative discharge characterized as "other than honorable," you will not have the right to reemployment. *See* 38 U.S.C. 4304.

[20] After a period of service of 181 days or more, you have 90 days to apply for reemployment. 38 U.S.C. 4312(e)(1)(D), Shorter deadlines apply after shorter periods of service.

[21] 38 U.S.C. 4318.

not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment by an employer on the basis of that membership, application for membership, performance of service, application for service, or obligation.

(b)An employer may not discriminate in employment against or take any adverse employment action against any person because such person (1) has taken an action to enforce a protection afforded any person under this chapter, (2) has testified or otherwise made a statement in or in connection with any proceeding under this chapter, (3) has assisted or otherwise participated in an investigation under this chapter, or (4) has exercised a right provided for in this chapter. The prohibition in this subsection shall apply with respect to a person regardless of whether that person has performed service in the uniformed services.

(c)An employer shall be considered to have engaged in actions prohibited—
(1) under subsection (a), if the person's membership, application for membership, service, application for service, or obligation for service in the uniformed services is a motivating factor in the employer's action, unless the employer can prove that the action would have been taken in the absence of such membership, application for membership, service, application for service, or obligation for service; or
(2) under subsection (b), if the person's (A) action to enforce a protection afforded any person under this chapter, (B) testimony or making of a statement in or in connection with any proceeding under this chapter, (C) assistance or other participation in an investigation under this chapter, or (D) exercise of a right provided for in this chapter, is a motivating factor in the employer's action, unless the employer can prove that the action would have been taken in the absence of such person's enforcement action, testimony, statement, assistance, participation, or exercise of a right.

(d) The prohibitions in subsections (a) and (b) shall apply to any position of employment, including a position that is described in section 4312(d)(1)(C) of this title.[22]

One can certainly argue that denying you the privilege of purchasing local government retirement credit for the 1984-92 active duty when the airport authority hired you in 1995 violated section 4311, but section 12736 of title 10 provides you a clearer path to victory.

Your decision to purchase civilian retirement credit for your 1984-92 active duty period has no effect on your Navy Reserve pension at age 60.

You have met the conditions for receiving your Reserve retirement, except you have not yet reached your 60th birthday. The requirements for your Reserve retirement have nothing to do with your civilian employment. Using the 1984-92 active duty for civilian pension purposes has no effect on the timing or amount of your Reserve pension.

[22] 38 U.S.C. 4311.

Please join or support ROA

This article is one of 1900-plus "Law Review" articles available at www.roa.org/lawcenter. The Reserve Officers Association, now doing business as the Reserve Organization of America (ROA), initiated this column in 1997. New articles are added each month.

ROA is almost a century old—it was established in 1922 by a group of veterans of "The Great War," as World War I was then known. One of those veterans was Captain Harry S. Truman. As President, in 1950, he signed our congressional charter. Under that charter, our mission is to advocate for the implementation of policies that provide for adequate national security. For many decades, we have argued that the Reserve Components, including the National Guard, are a cost-effective way to meet our nation's defense needs.

Indeed, ROA is the *only* national military organization that exclusively supports America's Reserve and National Guard.

Through these articles, and by other means, we have sought to educate service members, their spouses, and their attorneys about their legal rights and about how to exercise and enforce those rights. We provide information to service members, without regard to whether they are members of ROA or eligible to join, but please understand that ROA members, through their dues and contributions, pay the costs of providing this service and all the other great services that ROA provides.

If you are now serving or have ever served in any one of our nation's seven uniformed services, you are eligible for membership in ROA, and a one-year membership only costs $20. Enlisted personnel as well as officers are eligible for full membership, and eligibility applies to those who are serving or have served in the Active Component, the National Guard, or the Reserve.

If you are eligible for ROA membership, please join. You can join on-line at www.roa.org or call ROA at 800-809-9448.

If you are not eligible to join, please contribute financially, to help us keep up and expand this effort on behalf of those who serve. Please mail us a contribution to:

Reserve Officers Association
1 Constitution Ave. NE
Washington, DC 20002