The Technician

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Looking Back Edition

Duty...Dignity...Dedication

ACT Wishes Everyone A Merry Christmas

Fellow ACT Members,

Christmas and the end of 2016 is upon us and what a year ACT has had. I wanted to take a moment from the "hustle and bustle" of the holiday season and to wish you a Merry Christmas and a prosperous New Year. As always, I would like to ask that you still keep in your thoughts those who aren't able to spend time with their loved ones due to deployments worldwide or work commitments at home station.

There are some things to be excited for next year within the Technician program, mostly, the new title 5 conversion that is expected to be adopted into law! That is a win for our membership. We listened to YOU and YOU made the calls to YOUR members of congress. ACT will continue to protect YOUR union rights as a Member as you'll read in this month's issue. Please remain steadfast and diligent. With the upcoming ACT Rally this February, you'll be able to speak face to face with your members of congress to reiterate all your concerns.

Calvin Coolidge, the 30th President of the United States said: "Christmas is not a time nor a season, but a state of mind. To cherish peace and goodwill, to be plenteous in mercy, is to have the real spirit of Christmas."

I echo his message and as you get together with your family and friends to celebrate, I hope that you find yourselves filled with joy and peace. Please don't hesitate to contact ACT National for any of your questions and/or concerns. We are always here for YOU. Thank you all for the good things you do for ACT and again, Merry Christmas from my family to yours.

KTF,
Terry

2017 Rally Reminder

This is a friendly reminder that the annual Association of Civilian Technicians Rally for 2017 is less than 2 months away. Please do not forget to book your travel arrangements and accommodations as rooms are starting to fill up as we speak! Again, thank you to the members who have already booked in advance! The dates are from February 11th - February 16th. We will have an informational itenerary for your convenience. Please don't hesitate to contact the National Office for any additional information on the 2017 Rally.

We will have our annual rally at the Embassy Suites Alexandia Old Town, located right outside the King Street Old Town Blue Line Metro Station.

Registration per delegate is $50.00 via cash, check or credit card.

Click here to book your room online at the special ACT Rally rate. "ACT" fast or you won't be able to lock in the discounted rate.

Please don't miss out on a opportunity to speak to your elected representatives on issues that concern you!

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Looking Back on 2016

Looking back on some of the articles from our past editions of, "The Technician" from 2016 you can also access these issues on our sister website www.chooseACT.com for your quick reference. In previous editions, we have shown you our Regional Field Representatives training local Chapters and Officers and Stewards in contract negoiations, arbitration and other issues at the local and national level. We've also posted numerous articles on the Title 5 conversion and how it will benefit the Technician program. Please share with fellow Technicians and thanks again for your continued support. Foward to 2017 and beyond!

A Logical Solution, A Case for Title 5 (Previously published in January/February Edition 2016)
by Patrick Greaney

Like many eighteen year olds who joined the military straight out of high school, I was ten feet tall and bulletproof. I did not concern myself with a mortgage, children, insurance, or job security. I never considered the possibility of failing a physical fitness test or being medically disqualified to do my job. I was serving in the US Army as an infantryman and my future seemed far, far away.

Sixteen years later I find myself with a considerable mortgage, a brand new child, an intimate understanding of the ins and outs of my health insurance, and thanks to a recent conversation with my lovely wife, very concerned about job security as a Title 32 Technician. My wife, a Title 5 Technician at the Fleet Readiness Center at NAS Jacksonville, FL has no such worry. As long as she can meet the conditions of her job, she can stay employed until she literally dies.

"So, if you get in a car accident and a doctor tells you that you can't run ever again, what would happen to your job?" she casually posited on an autumn day.
"I guess I would have to look for a new job in a BIG hurry." I replied.
I spent a lot of time thinking about that conversation. My Title 5 spouse is also a drilling status guardsman in my unit. She is eligible for TRICARE Reserve Select, I am not. She is eligible for re-enlistment bonuses while I am not.

At least I don't have to go before a retention board until I reach my minimum retirement age… Oh yeah, we do have that in common. While I have twenty-three years before my MRA and nineteen retention boards between retirement and me; she can be non-retained and separate from the military and keep her job as long is she is still willing. I am starting to think A LOT about this now. As luck would have it, the National Defense Authorization Act for Fiscal Year 2016 was passed and it contained
the following passage:

(Sec. 1053) Requires DOD to convert at least 20% of the general administration, clerical, and office service occupation positions identified in a specified report from military Technician (dual status) positions to civilian

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positions. Phases in the termination of military Technician (non-dual status) positions. Sets forth reporting requirements.

Where did that come from? How does it apply to me?
I was afforded an opportunity to meet with Florida National Guard Human Resources Officers at a meeting to discuss the NDAA, specifically, Section 1053 and how it affects me.
On January 12, 2016 I put on my ACT shirt and headed to hear the news. The first thing uttered in the meeting by HRO was that nothing was concrete. I could immediately tell that HRO, and by proxy management, was against the conversion. Sitting on my side of the table I couldn't see a downside. This could fix several of the inequalities Title 32 Technicians face. Why would they not want this? After all, they are Technicians too.
Looking at my notes taken on the day of the meeting, the reasons against it are:
1. It will hurt readiness.
2. It could be seen as the federal government taking over a program which is run by the state or the adjutants general in each state.
3. We will cease to have protection from force shaping based upon budget.

Let's take a look at those individually.

It will hurt readiness. How will it do that exactly? Anecdotal conversations with HRO from that meeting cite an aging work force that has parted ways with their military progenitor. This will lead to the military force, over time, transitioning to nearly all part timers while the bulk of the skill set will still reside with the now old, fat, and bearded Title 5 technician force. I have heard it said that we Technicians exist so that we can train the part time force and provide continuity in knowledge and skills. We will still be there day in and day out to keep the machine running during the week and will gladly toss the keys to the kids on drill weekend so that they can prove that they are a force to be reckoned with. To say otherwise would be an indictment of the National Guard and the Reserves as effective programs which are vital to our nation's defense. So I don't buy that this conversion will hurt readiness.The military can keep their lean young force with its next man up concept and we will keep it running when they aren't there.

It could be seen as the federal government taking over a program which is run by the state or the adjutants general of each state.

This one is much easier to dismiss. I am a federal employee. The National Guard Technician Act of 1968 states:

(d) The Secretary concerned shall designate the adjutants general referred to in section 314 of this title to employ and administer the technicians authorized by this section.

(e) A technician employed under subsection (a) is an employee of the Department of the Army of the Department of the Air Force, as the case may be, and an employee of the United States.

This clearly states that I am a DoD employee who works for the adjutant general only because the Secretary of the Army or Air has designated him or her to administer the program. As a Title 5 employee I would now have the right to appeal to the Merit Systems Protection Board rather than the adjutant general having final authority.

We will cease to have protection from force shaping based upon budget.

This one is the hardest to patently dismiss as it holds the potential for the most catastrophic change. Having said that I will again reference The National Guard Technician Act of 1968:
(3) a reduction in force, removal, or an adverse action involving discharge from Technician employment, suspension, furlough without pay, or reduction in rank or compensation shall be accomplished by the adjutant general of the jurisdiction concerned; This says that the adjutant general has the right to do as he or she deems necessary when it comes to force shaping.

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Many have felt this on a retention board while most felt it during the most recent administrative furlough. A furlough I might add that several Title 5 agencies avoided because they had the flexibility to execute the budget cuts as they saw fit. On the national stage the president of the National Guard Association of the United States, Maj Gen Gus Hargett (Ret.) wrote an opinion piece taking umbrage with the conversion. I would be remiss not to address the concerns which he voiced. "No one discussed this measure with us, and, as far as I know, no one talked about [the conversion] with governors, the National Guard Bureau or the adjutants general." Hargett's disdain for the Oxford comma notwithstanding, what obligation does Congress have to discuss legislation with governors, NGB, or adjutants general? Let's look at this piece by piece. For starters, Hargett caveats everything he says with, "as far as I know" opening up the door for him to speculate without the burden of certainty. But let's assume, for the sake of argument that he does know. The governors command the National Guard for their states but as we established above, Title 32 Technicians work for the federal government, not the state. The National Guard Bureau is tasked with the administration of the National Guard in accordance with the laws passed by Congress. As for the adjutants general, they can make their opinions known to NGB, their governors, or the Secretaries of the Army and Air Force who have delegated authority to them. The NDAA is nearly 2,000 pages and touches every aspect of national defense. It is not reasonable to expect Congress to inform every affected agency of any forthcoming change, especially with as much gridlock we already have on the hill.

"…every military-Technician slot they move from Title 32 to Title 5 would be a soldier or airman the Guard would have to recruit, train and retain."

(Again with the Oxford comma!) This statement demonstrates a disconnect with reality in a very tangible way. Does the conversion of Title 32 Technicians to Title 5 forcibly separate anyone from their current enlistment? Of course not, this statement could be made true by stating that, every military-Technician who is nonretained would be a soldier or airman the Guard would have to recruit, train, and retain. "…current technicians are not eligible for bonuses if they choose to remain in the Guard, but the men and women who must be brought in to fill their boots in the ranks will qualify for those incentive payments, creating a new cost where none now exists." This highlights a fundamental inequality that exists in the Title 32 program. We are required to re-enlist to keep our jobs and thus are deemed undeserving of bonuses. One would think that this same logic would exempt us from retention boards, but I digress. Incentive payments are not mandatory and are only required for careers which have a low retention rate or manpower shortfall.

"These Title 5 civilian employees will not have a role in state emergencies, unlike the dual-status Technicians they will replace."

This seems to be nothing more than fear mongering. Disaster relief is a major role of the National Guard that sees little if any participation from the Technician force. Furthermore, there is nothing in the law which will change the number of guardsmen at the disposal of the governor in the event of a disaster. Anecdotally, I have never seen anyone go to a state emergency in a Technician status and if they did, there is nothing which would stop a Title 5 Technician from doing the same thing. "The Guard loses the full-time employment of these slots as a recruiting tool." The guard doesn't lose these positions. They will still exist and can still be used as recruiting tools. Join the guard, get the training to apply for a Title 5 Technician position. No different than the current system. "And it increases costs." I will quote the Mil Tech Report of 2013 which was commissioned to look a the feasibility of this transition. "Compensation costs are neutral because DS MilTech civilian compensation tends to be similar to their federal civilian counterparts." Like it or not, the NDAA is law and it contains the aforementioned Sec. 1053. The DoD has already missed their first suspense date for implementation of the conversion and they are currently projected to have a plan by the end of July. As it stands right now, the DoD is to convert twenty percent of dual status Technician positions identified as general administration, clerical, finance, and office service occupation into Title 5 positions by 1 January 2017 without competition. As for me, I will continue to think A LOT about my future as a Title 32 Technician and hope that the other 80 percent is not too far behind.

ASSOCIATION OF CIVILIAN TECHNICIANS

TERRY W. GARNETT
National President

February 22, 2016

The Honorable John McCain
Chairman
Committee on Armed Services
United States Senate
Washington, DC 20510

The Honorable Jack Reed
Ranking Member
Committee on Armed Services
United States Senate
Washington, DC 20510

The Honorable Mac Thornberry
Chairman
Committee on Armed Services
United States House of Representatives
Washington, DC 20515

The Honorable Adam Smith
Ranking Member
Committee on Armed Services
United States House of Representatives
Washington, DC 20515

Dear Chairman McCain, Senator Reed, Chairman Thornberry, and Representative Smith:

The Association of Civilian Technicians (ACT), which represents a nationwide majority of National Guard bargaining unit technicians—22,000 in 43 jurisdictions—supports full implementation of § 1053 of NDAA 2016.

The enclosed ACT Position Paper shows that § 1053 reduces costs without impairing military readiness. It reduces costs by converting some dual status technicians—full-time Reserve or National Guard civilian employees who also are required to be military members available for activation to military duty—to non-dual status employees who are not required to be military members. This cost reduction does not reduce readiness, however, because the law converts only dual status technicians, such as finance clerks, who do not need to be military members to effectively perform their duties.

The January 7, 2016, Council of Governors letter to you urging repeal of § 1053 asserts with respect to Guard technicians that § 1053 (a) is a "shift in authority from governors . . . to the federal government," (b) "reduce[s] National Guard readiness and military cohesion," (c) "increase[s] federal and state costs," (d) "undermines state management of a critically important part of our National Guard forces," and (e) "reduces the number of personnel available to states during times of emergency." The Council's letter, however, presents no facts or analysis to support these assertions.

Our Position Paper shows that the Council's first four assertions are incorrect and that the last—which is correct, and the source of appropriate cost savings—is not a valid basis for repeal of § 1053. This is true for two reasons.

First, § 1053 does not reduce the number of Traditional Guard members who would be available during state emergencies. Dual-status technician employees do not add to the authorized strength of state Guard Units. By law they simply must be assigned to the existing state Guard force structure in a military position having duties similar to those they perform as civilian employees. Technicians do not perform state active duty in a civilian status. They are placed on state active duty military orders just as other members of their unit when the Guard is required to respond to state emergencies.

Second, part of the intent of the dual-status technician program is to enhance military expertise and skill sets through performing similar duties as a civilian employee. The duties of civilian positions that would be converted under §1053 do not enhance the military skill sets that would be needed in state emergencies. Guard Units that would normally be required for state emergencies would be engineers and medical units for disasters and military police for civil disturbance situations. The civilian positions to be converted are in administration, finance and office support. Very important civilian jobs to be sure, but not skill sets needed as Guardsmen when responding to state emergencies.

The proper criterion for determining whether a position in a state Guard unit needs to be a military position is whether the duties must be performed overseas when members of the unit are activated to Title 10 federal military duty. If during an overseas deployment finance clerks effectively can perform their duties, without deploying themselves, then they do not need to be military members and their conversion to non-dual status does not impair readiness.

This is the principle that § 1053 implements. The Secretary, moreover, to maximize cost savings, should fully implement this principle by converting *all* dual status technician positions that do not require deployment, not just the minimum percentage required by the law.

Turning to the Council's other claims, the unexplained assertion that § 1053 simultaneously increases federal and state costs while reducing personnel available for state emergencies is absurd. Obviously, this assertion is self-contradictory.

The truth, as stated above, is that the law reduces the number of positions that require military membership, thereby reducing the number of employees who must be available for state emergency duty; and this reduces, not increases, military costs. (The Council's unexplained claim of increased costs may be based on the erroneous argument that converted technicians who are no longer military members will need to be replaced in the military unit by new Traditional Guard military members, who cost more because they must be paid enlistment bonuses. As the Position Paper notes, the fallacy of this argument is its premise—that such replacement will be necessary. It will not be, because the duties of a converted position will never need to be performed by anyone in military status. The duties effectively will be performed, at all times, by a non-dual status civilian employee.)

ASSOCIATION OF CIVILIAN TECHNICIANS

TERRY W. GARNETT
National President

The Council's assertions that § 1053 shifts power away from governors and undermines state management, moreover, are legally incorrect—as our Position Paper shows, citing applicable authority. Section 1053 converts federal employees from one federal employment status to another federal employment status. The governors have no power over these federal employees now. Adjutants General who employ them must do so in accordance with the regulations of the Secretary; governors have no authority to issue contrary edicts. Section 1053, moreover, creates no management problem, because the Secretary has ample authority to delegate management of converted employees to the Adjutants General, and there is no reason to believe the Secretary will not do this, as it is the sensible thing to do.

The "Dual-Status" employment program that supports the Guard and Reserve has been in place for many decades without much change. Over the years many organizations that represent these employees, ours included, have advocated for needed updating and changes to these employment programs. Now we have a study, directed by Congress, identifying common sense changes that will save money and improve the program by retaining experienced employees. We support the concept of the conversion and any move to repeal or make changes in the intent of Section 1053 should be rejected.

We would be pleased to answer any questions that you may have about the points in this letter or the accompanying Position Paper.

Sincerely,

Terry Garnett, National President
Association of Civilian Technicians

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ASSOCIATION OF CIVILIAN TECHNICIANS

TERRY W. GARNETT
National President

For Public Release

Association of Civilian Technicians Position Paper

Section 1053, S.1356, NDAA FY 2016, P.L. 114-92 "Management of Military Technicians"

Summary

Section 1053 reduces costs without sacrificing military readiness.

To achieve the full benefit of the law and to ensure consistent personnel management, the Secretary should convert to Title 5 competitive service positions all dual status technician positions that do not require performance overseas when unit employees are activated to Title 10 military duty.[1]

To achieve additional personnel management efficiency, the Secretary immediately should convert all non-dual status technician positions to Title 5 competitive service, non-technician positions. The period of phased-in conversion should be brief, not extended.

Arguments that have been raised for repeal of § 1053 are erroneous or, if true, insufficient or improper.

Provisions of Section 1053

Section 1053(a) requires the Secretary of Defense by January 1, 2017, to "convert not fewer than 20 percent of the" "[m]ilitary technician (dual status) positions identified as general administration, clerical, finance, and office service occupations in the report of the Secretary . . . under section 519 of . . . Public Law 112-81" "to positions filled by individuals who are employed under section 3101 of title 5, United States Code, and are not military technicians."[2] Section 1053(a)(2) allows the Secretary to convert positions in other categories. Section 1053(a)(3) states that the Secretary "may fill" a converted position "with the incumbent

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[1] An additional benefit of the law is that it affords converted National Guard Technicians Title 5 employment rights, including independent review of suspensions and removals, that all technicians should have. We expect implementation of § 1053 will demonstrate that additional legislation should afford these Title 5 rights to all Guard technicians, including those who remain dual status.

[2] The "report of the Secretary" is M. Dolfini-Reed, et al., *Report on the Termination of Military Technician as a Distinct Personnel Management Category*, CNA DRM-2012-U-005399-1Rev (September 2013).

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employee without regard to any requirement concerning competition or competitive hiring procedures."

Section 1053(b) prohibits further hiring of non-dual status technicians. It also requires that current non-dual status technician positions vacated by retirement or other separation of the incumbents be converted to Title 5 non-technician positions, if the vacancies are filled.

Value of Section 1053

Section 1053 reduces costs without sacrificing military readiness.

A National Guard or Reserve federal civilian position should be a Title 5 competitive service position with no military membership requirement unless the duties of the position require their performance overseas when unit personnel are activated to Title 10 military duty.[3]

Unnecessary designation of positions as dual status is costly. The incumbents must be paid not only full-time civilian pay, but also military pay for weekend drills and two weeks of annual military training, as well as paid leave from the civilian job to perform the annual training (or other military service). Dual status employees who become disabled for military service must be separated from their civilian jobs, even if they are fully capable of performing them, and must be paid special civilian disability retirement benefits—resulting in not only loss of the employees' experience and expertise but also payments for no work. 5 U.S.C. §§ 8337(h), 8456.

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[3] If the duties of a civilian position must be performed where the unit is located, potentially in a combat zone, readiness requires that the position be dual status, for two reasons. First, though many civilians might be willing to work, perhaps repeatedly, in combat zones, assurance of readiness requires that the unit be able legally to compel deployment, which can be done only if the individual is a military member. Second, allowing the incumbent to stay home while ordering a Traditional Guard or Reserve member to deploy instead would be inefficient. Part-time Traditional members are less experienced than full-time dual status employees. Further, deployment of a Traditional member to do the same work as an employee allowed to stay home would be duplicative, unless the latter were furloughed for the duration of the deployment, which, if long, likely would result in the employee finding another job and resigning, causing the unit permanently to lose the benefit of the employee's experience and expertise.

Note, however, that these two reasons do not necessarily require that *all* of a unit's positions of a particular type be dual status. The whole unit overseas deployments that occurred in World War II have not been ordered in recent years and it would be reasonable to maintain, in light of modern conditions, that such whole unit deployments will not be necessary again. This would mean, for example, that in an Air Guard fighter unit not all of the aircraft maintenance mechanics would need to be dual status. If any overseas deployment would leave at least some of the aircraft at home, mechanics needed to maintain them would not need to be dual status employees. In these circumstances, a policy that would allow older aircraft mechanics to become non-dual status mechanics after many years of dual status service would be consistent with readiness. Further, it would improve it—by retaining experienced, highly skilled employees to perform work efficiently and to train newcomers, and by attracting high quality personnel in the first place, by providing greater assurance of employment until normal retirement age.

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For these reasons, positions should be dual status only if this designation is necessary. If the duties of a position do not require performance overseas when unit personnel are activated, the position does not need to be dual status to preserve military readiness.

In accordance with this principle, § 1053 does not impair readiness, because the percentage of dual status positions that the law requires to be converted to Title 5 non-technician positions is less than the number of positions that *should* be converted. For many years Congress has imposed an arbitrarily low cap on non-dual status employment in Guard and Reserve units. 10 U.S.C. § 10217. Due to the cap, many positions have been designated dual status though their duties need not be performed overseas when unit personnel are activated.

Section 1053 expressly designates for conversion "general administration, clerical, finance, and office service occupations." The Secretary's 2013 report found "that 21 percent of all DS MilTech positions are general administration, clerical, and office services occupations." Table 9 of the Secretary's report identifies several other categories of dual status technician positions that are likely to include jobs that do not require deployment—for example, "Accounting and Budget," "Human Resources Management," "Unknown," "Business and Industry," "Education," "Miscellaneous Occupations" (listed twice as two different categories), "Information and Art," and "Legal and Kindred."[4] Thus, the legally required conversions are fewer than the conversions that should occur, and that can occur without impairing military readiness.

The Secretary Should Maximize and Expedite Conversions to Achieve Full Cost Savings and Avoid Inconsistent Personnel Management

All Positions that Do Not Need to be Dual Status Should Be Converted, Not Just the Minimum Number Required by the Law

To maximize cost savings and avoid inconsistent personnel management, the Secretary should convert all positions that do not need to be dual status, not just the minimum percentage required by the law. An arbitrary number of positions should not be converted while other employees in either identical positions or positions equally suitable for conversion continue to be dual status employees.

Such inconsistent personnel management likely would cause irrational workforce turbulence and inefficiency—as employees in otherwise identical positions seek placement in

[4] Also, even if *some* positions of a particular type need to be dual status, this does not mean that *all* positions of that type need to be dual status—to the extent that World War II style full unit deployments, including all unit equipment, are no longer occurring and are unlikely to occur in the future. See footnote 2.

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the particular subset that has Title 5 status; or employees seek not the positions for which they are best suited, but those for which they are suited well enough and that also have Title 5 status. Incongruity of this kind likely would have a corrosive effect on employee morale. This is to be expected where employees who by all rational considerations are similarly situated are nonetheless treated inconsistently in a significant way. To avoid these consequences, all positions appropriate for conversion should be converted, not just the statutory minimum.[5]

Conversion of Non-Dual Status Positions Should Be Expedited

To avoid additional inconsistency in personnel management, the Secretary should expedite the conversion of all non-dual status technician positions to Title 5 competitive service positions. Under § 1053(b)'s "phased-in" conversion of non-dual status technician positions, a non-dual status technician who is twenty-five years old and hired in December 2016 could remain a non-dual status technician until retirement more than forty years later. A situation in which some employees continue for decades to be non-dual status technicians, while newly-hired employees in identical jobs working next to them are given non-technician Title 5 status, would create turbulence, inefficiency and corrosion of morale similar to that described above.

As Title 5 non-technician positions become available, some non-dual status technicians are likely to seek them because they have that Title 5 status, not because they are the positions in which the employees might best serve the agency. On the other hand, to the extent some hiring managers are opposed to and wish to slow the conversion, they have an incentive not to hire non-dual status technicians who apply for new vacancies, even if they are best qualified, so that the technicians remain technicians and do not create new non-technician vacancies by leaving their current positions. These irrational circumstances should be avoided.[6]

Arguments for Repeal of § 1053 are Invalid

We have heard the following arguments for repeal of § 1053. First, it creates a serious readiness issue by requiring that at least 20% of dual status technicians be converted to Title 5 civilian employees. Second, it drives up costs because for every converted position the military

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[5] To avoid other inefficiency, the Secretary should use the authority granted by 1053(a)(3) to *require* that incumbents in positions to be converted be appointed non-competitively to the converted positions without break in service. The conversion should not be an occasion for turbulence and instability in the workforce. There should be no "jockeying" for converted positions.

[6] Under § 1053(b), non-dual status technicians may resign, causing their vacated positions to become non-technician Title 5 positions, then apply for and compete to be rehired in the converted position—with good chance of success, as they likely would be found to be best qualified. The Secretary should achieve this result directly, without the inefficient hiatus between resignation and rehiring. The Secretary should issue a regulation providing that any non-dual status technician who desires to resign from technician employment and immediately be rehired non-competitively without break in service to the Title 5 competitive service position that will replace the technician position has a right to do so.

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will need to recruit a new military member and these new members will have to be paid enlistment and re-enlistment incentives that dual status technicians do not have to be paid. Third, Title 5 employees in National Guard units will not be answerable to the Adjutants General and the Governors, and this will cause administrative problems. Fourth, Title 5 employees in Guard units will not be available for state emergencies. Fifth, Title 5 employees will be subject to civilian force reductions that are not linked to military reductions.

None of these arguments is a valid reason to repeal § 1053.

First, § 1053 does not require conversion of more dual status technician positions than should be converted. To the contrary, the legal requirement is conservative; the Secretary actually should convert more positions than the 20 percent required by the law. The Secretary's 2013 report found that 21% of dual status technicians are employed in general administration, clerical and office service occupations. Many others are employed in "Accounting and Budget," "Human Resources Management," "Unknown," "Business and Industry," "Education," "Miscellaneous Occupations" (listed twice as two different categories), "Information and Art," and "Legal and Kindred." There is no reason to believe, and critics have provided no evidence, that the law's 20 percent requirement cannot be met by converting only positions that do not require overseas deployment. In fact, the Secretary's report indicates the opposite is true.

Second, because the duties of the converted dual status positions do not need to be performed overseas—and therefore do not need to be performed by anyone in military status—there will be no need to recruit new military members to perform these duties. Thus, there will be no new enlistment or re-enlistment bonuses to pay. The full-time Title 5 non-technician employees will perform the duties of these positions at all times. Because these employees will not need to be military members, military costs will be reduced, not increased.

Third, National Guard technicians are not answerable to state Governors now. Rather, they are federal employees of the United States Department of Defense. 32 U.S.C. § 709(e). The Secretary must designate Adjutants General as the employers of Guard technicians, 32 U.S.C. § 709(d); but in employing technicians Adjutants General act as federal officials. *Lipscomb v. FLRA*, 333 F.3d 611 (5th Cir. 2003). They must comply with the regulations of the Secretary, 32 U.S.C. § 709(a)—any conflicting orders from state Governors notwithstanding. While the § 709(d) legal mandate would not apply with respect to the Title 5 employees in converted Guard positions, this is not a sufficient reason to repeal § 1053. There is no reason to believe the Secretary would not choose to designate the Adjutants General to employ, or at least operationally direct, these employees, thereby providing Adjutants General fully sufficient administrative authority. The Secretary's general statutory authority over Department employees, as well as the authority implied by § 1053 itself, provides ample legal authority for this designation.

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Duty...Dignity...Dedication

Fourth, while it is true that Title 5 employees employed in Guard units under § 1053 would not be required to be available for state emergencies—because they would not be required to be state Guard members—this is not a proper reason to repeal § 1053. The non-dual status technicians currently employed by Guard units also are not available for state emergencies. Like current non-dual status technician positions, the dual status positions to be converted under § 1053 are only those that do not need to be part of the federal military unit when the unit is activated to Title 10 status. If it is not necessary to include a position in the federal military unit, it is not proper to argue that the position nonetheless should be part of the state military unit. The Secretary should not be required to retain in the military finance clerks who do not need to deploy overseas, just so these finance clerks can be kept in the state military and ordered to fill sandbags during floods. There is no principled basis for such a requirement. If for a particular flood more than the reduced number of dual status technicians need to be ordered to state military duty, Traditional Guard members, who are not reduced by § 1053, can be activated. Necessity for overseas deployment, not occasional need for sandbagging or other common emergency work, should determine the composition of a military unit.

Fifth, while it is also true that non-technician Title 5 employees of Guard and Reserve units would lose the legal protection from civilian force reduction provided by 10 U.S.C. § 10216, this is not a sufficient reason to repeal § 1053. In implementing future civilian force reductions not linked to military force reductions, Congress and the Department properly can be expected to tailor the reductions to ensure the same preservation of military readiness that § 10216 currently provides. This, of course, should be done; and there is no reason to believe it will not be.

Conclusion

Section 1053 saves money without reducing military readiness. To maximize both savings and personnel management efficiency, the Secretary should fully and expeditiously implement this law.

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New Commander's Guide For Aviation Units (From July / August Edition 2016)

"ARNG/USAR Technicians assigned to aviation support facilities and other aviation duty assignments with flying as a condition of their employment must comply with AD ATP and RL progression requirements."

TC 3-04.11 Commander's Aviation Training and Standardization Program, PG 1-4, 3 August 2016.
This effectively doubles the flying hour requirements for Technicians, including all WG-12 Crew Chiefs and Flight Engineer Instructors in the Army National Guard. The new requirement also requires that flight training, referred to here as RL progression (Readiness Level progression), be shortened from one year between levels, as is the case with all M-Day Soldiers, to 90 days between levels. To say the least, this is a significant change from the standards addressed in the previous version of the Commander's Guide:

DEPARTMENT OF THE ARMY CIVILIANS, UNITED STATES ARMY RESERVE MILITARY TECHNICIANS,AND ARMY NATIONAL GUARD TECHNICIANS 3-53.

DACs, U.S. Army Reserve (USAR) military Technicians, and ARNG Technicians must comply with the appropriate ATM for the initial aircraft qualification,annual standardization flight evaluation, instrument evaluation, and MP/ME evaluation, if applicable. DAC aviators instructing USAACE approved POIs must accomplish all APART requirements specified in the appropriate ATM. The flight evaluations are conducted during a designated quarter and include only those tasks necessary to meet the requirements in the individual's job description. Flight evaluation(s) for alternate oradditional aircraft need not be conducted during the same quarter as the primary aircraft. In addition, USAR military Technicians and ARNG technicians must—

Satisfactorily complete the annual hands-on performance test components of the APART and the operator's manual examination by the end of the APART period.
Comply with all ATM requirements for aircraft designated by their military commander or technician supervisor.

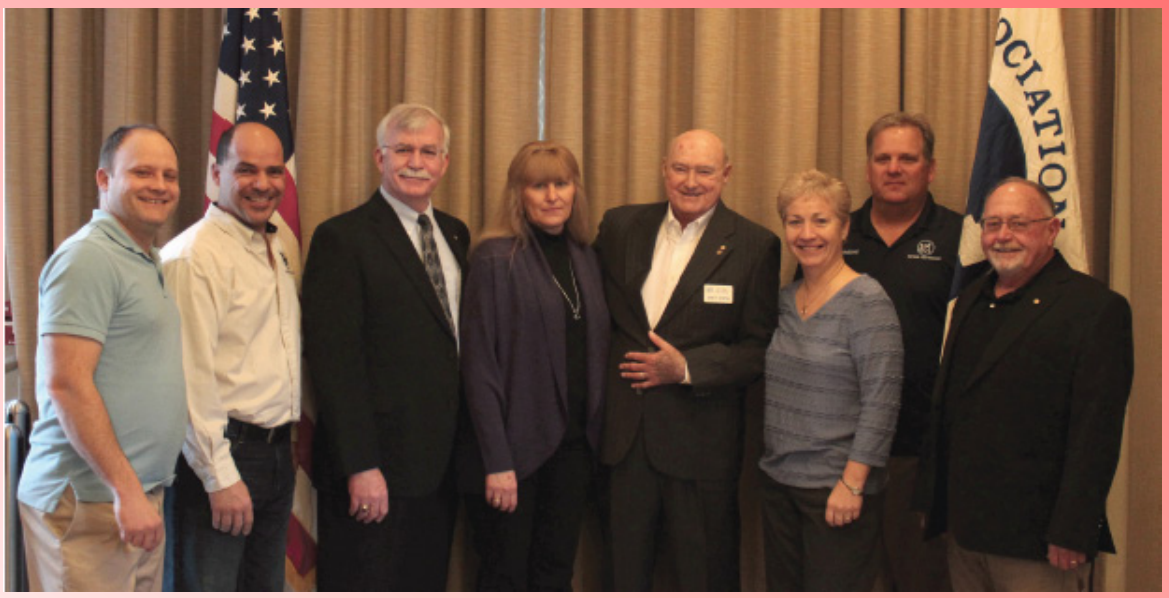
TC 3-04.11 Commander's Aircrew Training Program for Individual, Crew, and Collective Training, pg. 3-11, November 2009

If our interpretation of 32 USC 709 (i) is that it is contrary to the law for Secretary to promulgate different standards based solely on Technician employment, then this is a clear violation of law.
This also begs the question: If it is contrary to law for the Secretary to promulgate different standards based solely on Technician employment status, how can NGB deny Technicians bonuses, student loan repayment, etc., etc.? This may open an entirely new can of worms for the courts to digest...

Arizona Army and Air Chapters #61 and #71 Attend Training

(From January / February Edition 2016)

Past ACT National President, John Hunter Visits with ACT Executive Board and Staff



ACT Holds Spring Rally in Nation's Capital

(From March / April Edition 2016)

ACT held its 56th Rally in the D.C. area

ACT Holds Spring Rally in Nation's Capital

(From March / April Edition 2016)

Air and Army Breakout Discussions at the D.C. Rally

ACT Holds Spring Rally in Nation's Capital

(From March / April Edition 2016)

$100 Gift Card Winners at the D.C. Rally!

Fity! Fity!

Past ACT National President, John Hunter Visits with ACT Regional Field Reps (From March / April Edition 2016)

ACT Holds Spring Rally in Nation's Capital

(From March / April Edition 2016)

Title 5 Questions And Concerns

By Dan Schember, ACT General Councel

The Conversion Does Not Require "Doubling the Bodies"

The Questions and Concerns Paper (QCP) states, "Small (population-wise) states may have trouble doubling the bodies required by separating the Mil/Civ manning." The QCP repeats this same point later when it says, "For those of us in small (population) states, the ability to recruit to 20% more positions (or more if the "not less than" criteria is followed) is a daunting task."

These statements in the QCP, however, reflect misunderstanding of the proper implementation of the law. This "doubling the bodies" or "recruit[ing] to 20% more positions or more" will not be necessary.

If the law is properly implemented, the positions converted will be those that do not require military membership because they do not require the incumbents to deploy overseas. They will be positions, like finance positions, that the incumbents can perform effectively at the home base, even if members of the military unit deploy.

When a dual status technician finance position properly is selected for conversion to a Title 5 non-dual status position, this finance position also will disappear from the military manning document. Thus, another "body" will not be recruited to fill the military finance position because the military position will not exist. The Title 5 incumbent of the civilian finance position will be the one and only "body" performing the duties of that position.

Of course, to the extent the civilian positions of some dual status technicians are different from their military positions (perhaps due to compatibility exceptions), the incumbents of some converted dual status positions may occupy military positions that need to remain on the military roster. To the extent these incumbents immediately or eventually choose not to continue their military memberships, Traditional Guard members will need to be recruited for these military positions. To this extent only, there will be a necessary increase in "bodies." There will be no need for "doubling the bodies" or "recruit[ing] to 20% more positions or more."

With Proper Implementation, There Will Be No Loss of Seniority

The QCP asks, "[W]hat, if any, rights/seniority/tenure standing/etc. would the incumbent employee have? There should be some provisions to convert not only the position but all standing gained under Title 32 to ensure these employees do not lose what they have earned due to a change in the conditions of employment outside their control."

If the law is properly implemented, positions will be converted without change of their incumbents, so there will be no break in service and no loss of seniority or relative retention standing. The 2016 NDAA allows this, but does not mandate it. ACT recommended that this be mandatory and the 2017 NDAA likely will so require. Even if it does not, however, the Secretary has authority under the 2016 law to require this. ACT maintains, moreover, that placing the incumbents in converted positions without break in service is a negotiable 5 U.S.C. § 7106(b)(3) "appropriate arrangement" for the employees whose positions are converted.

For these reasons, it is unlikely that any loss of seniority or relative retention standing will occur.

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With Proper Implementation, Vacancies Timely Will Be Filled

The QCP states:

As excepted service employees, we have enjoyed the ability to limit the competition somewhat to local applicants, only going outside the local area whenever there is a shortage of interested people. How does the process of competitive service employment work when filling vacancies? I understand that the process can be quite lengthy. How do we expect to do the work in a timely manner without adequate manning for extended periods of time while vacancies go unfilled?

The competitive service hiring process does involve steps and requirements that do not apply to filling excepted service positions; and, presumably, the converted positions will be Title 5 competitive service positions, not Title 5 excepted service positions.

But whether competitive service hiring necessarily takes significantly longer than excepted service hiring is not clear. In recent years, the competitive service hiring process has been the subject of labor-management discussions at the Department of Defense. These discussions have caused ACT's representatives to conclude that the greatest portion of delay in the process is simple management failure and inefficiency, not the amount of time necessarily required by any particular step in the process. Some competitive service positions are filled more rapidly than others. That delay in hiring is not uniform indicates that no required step necessarily imposes any particular, unacceptable delay.

At this time, proper hiring of Title 32 non-dual status (NDS) technicians requires use of the competitive service hiring process, because these technicians are in the competitive service. ACT is unaware of any widespread, longstanding complaint that hiring of NDS technicians has been so time consuming that timely accomplishment of work has been adversely affected to any significant extent.

If positions are converted without change of their incumbents, as almost certainly will be the case, there will be ample time to work on achieving efficiency in future Title 5 competitive service hiring. The conversion will not suddenly create a large number of Title 5 positions to fill.

Although proper implementation of the law will require appropriate efforts to ensure efficiency in hiring, this is not necessarily a detrimental feature of the conversion. The benefits of Title 5 competitive status—including the right to reach normal retirement without risk of separation by a selective retention board, the right to negotiate work schedules, and the right to appeal adverse actions to the Merit Systems Protection Board—are far more significant than the efforts that will be needed to ensure hiring efficiency.

continued on next page

With Proper Implementation, Deployments Will Not Necessarily Increase

The QCP states:

If some, but not all, current dual status positions in a particular area are converted to non-dual status positions, the pool of experienced and qualified personnel available to deploy will be reduced. This will inherently increase the number of deployments incurred by an individual member and decrease the retention of DSGs and desirability of those remaining dual status positions.

This reasoning by the QCP assumes that the law will be implemented in a manner that not only is improper, but—frankly—stupid. This reasoning says, for example, that if there are four finance positions and only three of them are converted to Title 5, this necessarily will increase the number deployments that the remaining dual status finance technician will incur—thus reducing the desirability of that dual status finance position and likely causing that technician to seek employment elsewhere.

But implementation of the law in this way would be absurd. If the law is properly implemented, the positions that will be converted to Title 5 will be positions that do not require the incumbents to deploy, and all such positions will be converted. The law does not limit conversions to 20% of all dual status technicians. The 20% standard is a floor, not a ceiling. Thus, if the law properly is implemented, there will be no lone dual status finance technician who will have to do all the deployments. Even if for some (invalid) reason there were to be a lone dual status finance technician, it would make no sense to deploy that technician if the work can be done at the home base.

There is an additional policy that should be implemented—voluntary conversion, at the election of the incumbents, of positions that are of a type that requires deployment, so long as the number of these positions converted does not diminish the number needed for deployments.

This is feasible because the era of full unit Guard deployments—as during World War II when entire Guard units were deployed overseas with all their equipment—is over. Currently, only some personnel in a Guard unit deploy at any particular time and the unit equipment typically remains at the home base. Deploying Guard members from one unit team up with deploying Guard members from other units to compose a full unit overseas.

This means, for example, that when Air Guard aircraft remain at the home base there is a continuing need for some aircraft mechanics to service and repair them, even when others deploy overseas. This being the case, ACT supports adoption of a policy that would allow dual status technicians with 20 years of service to elect to become Title 5 non-dual status employees but continue to perform the same duties that they performed as dual status technicians. These technicians would include the aircraft mechanics who would remain at the home base to work on the aircraft that remain there, while unit aircraft mechanics with fewer than 20 years of service would continue to be dual status and deploy when required.

This policy should not result in fewer positions being available than are needed for deployments. The policy necessarily would mean that technicians with fewer than 20 years of service likely would be required to deploy more than would be the case if technicians with 20 years of service or more also were in the deployable pool. But this policy would not create an incentive for technicians to leave the technician program. Rather, the opposite would be the case. Dual status technicians would know that once they reached 20 years of service, they would be able to keep their same jobs but be exempt from deployment; and they would not be subject to losing their employment as a result of a retention board decision to separate them militarily. They would have a clear path to normal retirement, as the Senate Report accompanying the 1968 Technician Act said they should have.

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Converted Technicians Will Not Be Needed to Train Traditional Guard Members on Drill Weekends

The QCP states:

Dual status technicians are employed to maintain assets and train traditional guardsmen. Who will train guardsmen on drill weekends? Overtime/premium pay for non-dual status employees to work weekends seems to be counterintuitive under the assumption that this directive was put in place to save money. While in theory military readiness would not be affected, some states would not be able to keep up with the increased number of "real" people required to make this happen. Assuming both Mil/Tech manning requirements remain the same, the total number of people required to fill all requirements would increase equal to the number of conversions. If manning is intended to be reduced on the military side based on the assumption that those positions are not deployed, who will perform those functions for those strictly military employees when the majority of their attendance is during normal civilian down days?

Later, the QCP repeats this point, saying:

[I]t's a bit short-sighted not to see that without the technician present on drill weekends readiness will be negatively impacted. . . . For guardsmen to take over in the middle of operations, without the continuity previously provided by the technician workforce, will drive a "start from scratch" mindset. We possess trained guardsmen ready to deploy BECAUSE we have the Title 32 technicians here on drill weekends to provide relevant training as well as continuity in those instances where you can't afford to "start from scratch." If you start over every time you'll never get to the end of some processes, there just isn't enough time in the weekend to do it all.

continued on next page

Once again, these QCP statements assume that the law will be implemented in a manner that makes no sense.

If the law is properly implemented, the personnel who "will train guardsmen on drill weekends" will be the personnel who continue to be dual status technicians. Traditional Guard members will not have to "start from scratch," without training by dual status technicians.

The dual status technicians attending weekend drill will not include finance personnel who have been converted to Title 5; but there will be no need for Title 5 finance personnel to train traditional guardsmen, because there will be no traditional guardsmen who are finance personnel The finance positions will disappear from the military roster Thus, the QCP's "Assuming both Mil/Tech manning requirements remain the same" is incorrect. The military manning requirements will not remain the same. Again, the finance positions will disappear from the military roster.

The elimination of finance positions from the military manning document will not reduce readiness. This is because finance personnel can perform their duties effectively at the home base in civilian status even if other unit employees have deployed militarily overseas. The Title 5 civilian finance personnel are the only finance personnel needed to ensure maximum unit readiness as to finance functions.

With respect to the QCP's question—"If manning is intended to be reduced on the military side based on the assumption that those positions are not deployed, who will perform those functions for those strictly military employees when the majority of their attendance is during normal civilian down days?"—the answer is simple. If a "strictly military" person—that is, a Traditional Guard member—has a finance issue, that issue will not be addressed by the Title 5 civilian finance employee on Saturday during drill weekend; but it will be addressed on the Monday after the drill weekend, when the civilian finance employee comes to work and reads the letter, memo, or email message from Guard member describing the problem. The delay from Saturday to Monday in the handling of a finance matter will not impair unit readiness.

Further, to the extent that proper performance of a Title 5 position may require the incumbent to communicate contemporaneously with Traditional Guard members on a drill weekend, the Title 5 employee's work schedule can be arranged to allow this, without necessarily incurring overtime. And even if some occasional overtime work by Title 5 personnel occurs, this is not a significant matter. The cost of this occasional overtime pay will be far less than the military pay that would have to be paid if all dual status finance technicians continued to occupy military finance positions and to attend all weekend drills and annual training—though the duties of their positions do not require overseas deployment or military membership, at all.

All USERRA Rights Will Remain

The QCP states:

People with USERRA rights get consideration as if they never left. Someone takes a stat tour while employed as Title 32 Dual Status Technician, the position converts to Title 5. Does the employee still have USERRA rights back to the position? Is the original position considered to have gone away and a new one put in place?

These questions pose no problem. USERRA requires that an employee returning from a military deployment be placed in the same or an appropriate position. This will continue to be the case. USERRA rights are statutory rights that do not depend on the answers to technical or theoretical administrative questions, such as whether one considers a position "to have gone away" or to be "a new one." Such questions arise and are answered now, irrespective of whether a conversion has occurred; and they will be answered in the same way if they arise in the context of a conversion.

continued on next page

The Title 5 Positions Will Be More, Not Less, Desirable

The QCP states, "without the dual status draw of these positions it will decrease the desirability significantly." This makes no sense. The Title 5 positions will be more, not less desirable, for several reasons: the right to reach normal civilian employment retirement without risk of separation by a military retention board; the right to negotiate the work schedule; MSPB protection; and the freedom to remain in the military, if desired, with no "compatibility" or "grade inversion" hassles, including freedom to join even a different unit, such as a Reserve unit.

Age Discrimination is Wrong

The QCP states, "the incumbents could tie those [Title 5] positions up for a much longer time without the age 60 limitation of a dual status position."

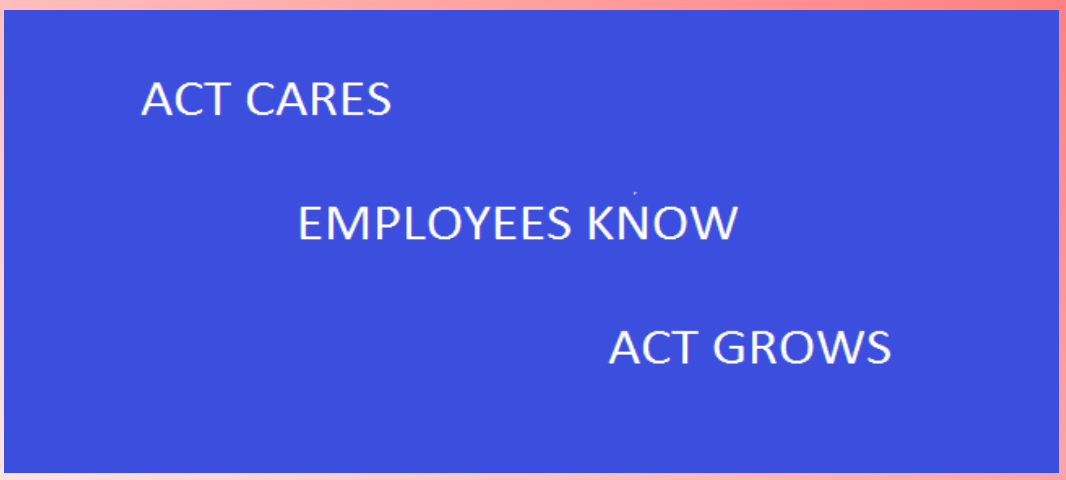
ACT opposes age discrimination. The idea that a willing and able employee should be required at some arbitrary age to no longer "tie up" a position and to, instead, "make way for a younger person," solely because the latter is younger, is wrong.

Conclusion: The Law is Beneficial and its Proper Implementation is Easily Achieved

The QCP foresees "disaster" and "suffer[ing]" based on erroneous assumptions about how the conversion to Title 5 of some dual status technician positions will be implemented. For the reasons stated above, the law, if properly implemented, clearly will be beneficial,

Further, fear that a good law might not be implemented properly is not a sound reason to reject the law, provided proper implementation is feasible. Here, proper implementation is not only feasible, but fairly simple. All that is required is to (a) convert to Title 5 those types of dual status technician positions that do not require the incumbents to deploy, and therefore do not need to be performed in military status; and (b) eliminate those types of positions from the military manning document.

In addition, implementation of the other concept stated above—voluntary conversion of dual status technicians to non-dual status Title 5 employees after 20 years of service—would be another desirable policy that not only could be implemented without adversely impacting readiness, but also likely would improve it—through the continued employment of highly experience personnel, rather than their loss through selective retention board actions.



California Air Chapter Officers & ACT National President Meet with TAG David Baldwin

(From May / June Edition 2016)

California Air Chapter Officers Meet and Greet National President

COLLECTIVE BARGAINING AGREEMENTS NO LONGER TO STALL AT NGB

Below are exerpts from email traffic between National President Garnett and DoD attempting to resolve the issue of CBAs being sent to NGB for approval rather than to DCPAS. A little prodding went a long way. This should return the process to the way the law intended.

To: Mcglasson, Lisa M CIV DODHRA DCPAS

Hey Lisa,
Please see below and attached per our phone conversation about CBA's being sent to NGB for approval...your assistance in this matter is appreciated...thanks, Terry

Hey Lisa,
I have not heard from you or anyone in your office on the below question I sent regarding NGB getting into contract approvals. It's been awhile.
Did the memo get sent to them? Can you provide me a copy of the memo?
Thanks, Terry

To: Hinkle-Bowles, Stephanie P SES OSD OUSD P-R

Ms. Hinkle-Bowles,
I recently mentioned this subject with Peter Levine at the roundtable and he asked me to follow up with you. I mentioned this to you and you asked me to get back with you via email when I found all the correspondences on this subject.

Starting at the very bottom of this email which goes back to 2012 you will see emails between Darryl Roberts and myself on this same subject which Darryl took care of the situation with NGB.
However since Darryl has moved on; NGB feels they can interject themselves into the contract approval process per the attached pdf's from 2015.

This NGB memo is mudding the Statute 30 day requirement of agency head review and making the contract process unclear.

I need someone to look into this and advise NGB to butt out of the contract approval process so we can get a contract approved without the delay of going through NGB first.

Also, Below is the email thread between DCPAS and me concerning this subject. Since I have not heard back from Lisa and we are still having issues with NGB as far as our contracts are concerned. I know Lisa is very busy and I am including her in this email so she is aware of what I am trying to do as far as contract approval is concerned.

Attached is DoD Volume 711 and copied below from 711 is section SC711.6.3 covers WHO review's and approves and disapproves agreements.

The other two attached documents, one is the NGB Review Memo and the other Word document is from ACT General Counsel Dan Schember who wrote to NGB and tried to work out a solution but to no avail.

This version of 711 is most current and states as follows:
SC711.6.3. Agreement Review
SC711.6.3.1. The Defense Civilian Personnel Management Service (CPMS), shall review and approve or disapprove agreements pursuant to 5 U.S.C. 7114(c)
(reference (b)).

All I am asking for is HELP in getting contracts approved in accordance with the Statute time limits. Your assistance is GREATLY appreciated...thanks, Terry

Good Morning, attached is a copy of the Rescinded memo that pertains to Collective Bargaining Agreement Review by the National Guard Bureau, Manpower and Personnel, Technician Labor and Employee Relations Branch. Also attached is a more detailed copy of the agenda for today's NCR meeting. Thanks.
Sheryl Scott
Labor Relations Specialist
NG-J1-TN

FINALLY!

NATIONAL GUARD BUREAU
111 SOUTH GEORGE MASON DRIVE
ARLINGTON, VA 22204-1382

NGB-J1-TN

12 June 2015

MEMORANDUM FOR HUMAN RESOURCE OFFICERS AND LABOR RELATIONS SPECIALIST OF ALL STATES, PUERTO RICO, THE US VIRGIN ISLANDS, GUAM, AND THE DISTRICT OF COLUMBIA

SUBJECT: Collective Bargaining Agreement Review by the National Guard Bureau, Manpower and Personnel, Technician Labor and Employee Relations Branch

1. This memorandum provides guidance regarding collective bargaining agreement (CBA) review by the National Guard Bureau (NGB).

2. NGB is now a joint activity of the Department of Defense, and will provide intermediate review of CBAs to ensure compliance with technician personnel regulations and consistency with federal law and judicial decisions.

3. After initial review, Human Resource Officers and Labor Relations Specialists will forward draft CBAs to NG-J1-TNL for intermediate review. After intermediate review, NG-J1-TNL will return the CBAs for any necessary correction or modification. The CBAs will then be forwarded to the Department of Defense Civilian Personnel Advisory Service for final review.

4. Points of contact are Mr. Keith Agee; NG-J1-TNL; 703-607-2726, or Ms. Sheryl Scott; NG-J1-TNL; 703-604-9667.

ROBERT W. TETREAULT
Acting Chief, Office of Technician Personnel, National Guard Bureau

Rescinded

Good afternoon Labor Relations Specialists,

The Office of Technician Personnel Management (NG-J1-TN) has rescinded the subject memorandum. This memorandum has been removed from the TN policy letter webpage.

IAW DoDI 1400.25, SC711. Activities shall forward one copy of executed agreements, or supplements to agreements, to CPMS immediately upon execution. The transmittal letter shall indicate the specific date the agreement was executed, the name and address of the labor organization's designated representative, and the name and phone number of an activity point of contact.

"Supporting those who are Always Ready...Always There"

v/r
Adriene R. Dallas
Chief, Labor/Employee Relations Branch.

ACT Launches New Sister Website September 2016

(From September Edition 2016)

ACT is happy to launch a new sister website, www.ChooseAct.com.
It is designed to communicate the advantages of membership to those who want to join ACT.
This website will serve as a destination for non-members to find out more about ACT while still protecting our members and their privacy on our login protected website www.ACTNAT.com. There will be no change to operations on our www.ACTNAT.com.

The new website will allow prospective members to see what we are all about and how to get in touch with us to add their voices to our chorus. Members also can access past issues of The Technician for reference.
If you have any feedback or suggestions about the site please contact our Organizer Patrick Greaney via email, pgreaney@actnat.com.

We encourage everyone to send prospective members to www.ChooseACT.com to learn more about ACT.

New Jersey Chapter Members Meet and Greet Terry

(From July / August Edition 2016)

Collins Award Winner Steve Landis and ACT National President, Terry Garnett

Fort Wayne Chapter President and National Secretary Shane Barva and National President Terry Garnett at Recent Meet and Greet

(From May / June Edition 2016)

Illinois Army, Land of Lincoln, Members

(From May / June Edition 2016)

Illinois Army Chapter Land of Lincon Members at Recent Meet and Greet with ACT National President

Alabama Officer and Steward Training 2016

(From July / August Edition 2016)

ACT Diplomas of Technician Representation

Michigan Officer and Steward Training 2016

(From July / August Edition 2016)

ACT Initiates New Process for National Elections in 2016

(From October Edition 2016)

2016 ACT Election Committee Members, left to right Randy Crews, Dean Gillum, Tim Keeseeker, and Carlos Fernandez

Cut out for your reference and your protection!

WEINGARTEN RIGHTS

I believe this discussion could lead to my being disciplined. I therefore request that my Union representative or Officer be present to assist me at the meeting. I further request reasonable time to consult with my Union representative regarding the subject and purpose of the meeting. Please consider this a continuing request; without representation I shall not participate in this discussion. I shall not consent to any searches or tests affecting my person, property, or effects without first consulting with my Union representative.

Why Should You Join ACT (From September Edition 2016)

Pat Greaney, Field Rep / Organizer

One of the most common questions asked of everyone from a shop steward to the National President is, "Why should I join ACT?" Reasons for not joining are as varied and different as the members who make up our organization,while the reasons to join are much more straightforward and consistent from workplace to workplace.

The first and by far the most obvious reason to join ACT is collective bargaining rights. We represent over 100 individual chapters in 41 states, the District of Columbia, the Virgin Islands, and Puerto Rico. ACT lays its foundationfor all interactions with management through collective bargaining. The ability to share information and victories won during bargaining with each and all of our Chapters continues to make ACT's collective bargaining agreements stronger. Often times a situation which was poorly handled with an employee becomes a catalyst for change in entire sections of a chapter's CBA. By joining ACT and participating with your local chapter leadership you are afforded the opportunity to bring to the forefront those issues which you feel most need attention. By lending your voice to the chorus of others you strengthen the position of ACT and of all of its members. Membership further gives you a voice to ratify the CBA prior to its going into effect.

You will often hear that a particular work center or section is an outstanding place to work and that bringing in the labor organization will only taint the productive relationship that is currently creating that situation. Always be mindful that relationships may change as may supervisors but having a strong presence from ACT can only help. ACT prefers to handle things informally and at the lowest possible level. Many times that ability to handle issues, even at a location at which they are extremely rare, at the lowest level serves to strengthen the relationship with management and makes the workplace more productive and harmonious. It should also be noted that many of the "great" places to work are that way because of the hard work that those members before you put into making it that way. Regardless of the individual relationship with the employer from section to section, ACT exists to ensure a fair workplace by enforcing the rules negotiated by the Chapter in their CBA.

Many potential members are worried that their voice won't be heard or that no one will listen to what they have to say. At its core, ACT is an organization entirely indebted to its members. Elections are held at the local and national level. All officers and stewards are democratically elected by the membership and joining gives you a voiceas to who they are and upon what issues they are to be focusing. ACT is not a club or a "good old boy" network.All members have the right and the responsibility to vote in elections and those who were elected have a duty to serve the membership which elected them. If you are not happy with the current representation at your local level, then step up and get involved with the local Chapter or run for a National Office.

Overall, the benefits of joining ACT are manifold and often times very specific to your local chapter. At the National level ACT serves as a communication and coordination hub for all of the local chapters and subject matter experts for issues which range from unfair labor practices (ULP) and arbitration, to contract negotiation and organizing efforts. ACT is currently involved in supporting the upcoming Title 5 conversion on Capitol Hill. We are working on protections for Whistle Blowers, Wounded Warriors, and excluding Dual Status Technicians from being furloughed.

ACT is involved in negotiating policy before it is decided upon at the National level via, our National Consultation Rights (NCR.) This first look allows us to head off proposals and actions which could have unintended consequences for our members. After those policies have been agreed upon, the local chapters will have the opportunity to conduct impact and implementation bargaining at the local level using ACT's NCR expertice.

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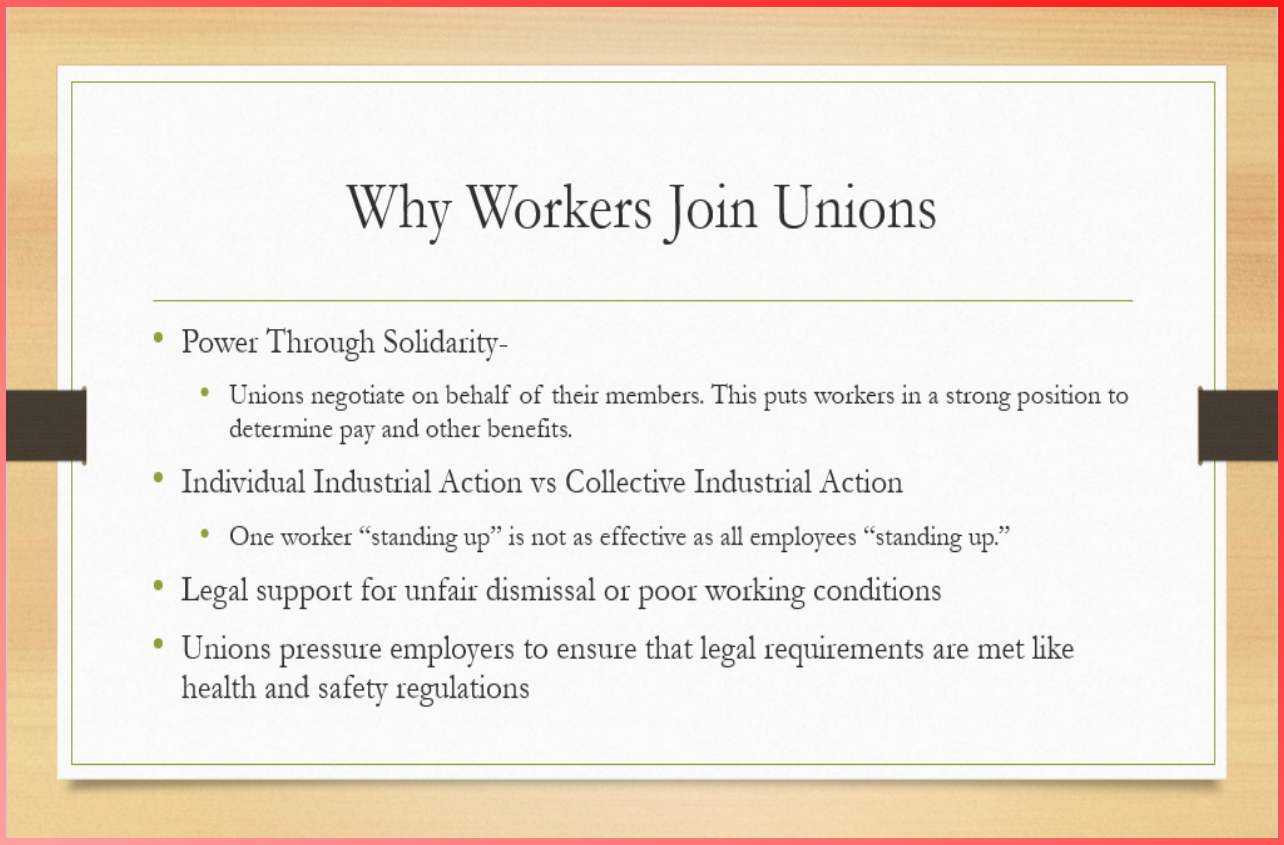

Some have said that Unions only help the less desirable employees who would be terminated were it not for the Labor Organization. ACT promotes fairness and equality and above all endeavors to protect the process to ensure that the system stays impartial. There are many ways for management to remove employees or to pursue adverse actions against them. ACT's stance is that every employee's case should be looked at with an impartial opinion. If the documentation exists to discipline an employee than we will ensure that it is administered in accordance with the laws and regulations, to include the CBA.

At the end of the day for less than one percent (0.008% to be exact) of your pay you get the opportunity to be a member of an organization that exists only to make your working environment more comfortable, safe, consistent, and above all fair. Many of the big battles have been fought and won by those who came before you but that should only serve as inspiration to you and your coworkers to continue to improve your current environment by seeking out your Union Steward and lending us your voice.

Top 10 Things To Do When Disciplined By Management

* #1: Call / Notify Your ACT Representative

* #2 through #10: Refer to #1

Arkansas TAG Meet and Greet with Chapter Officers and ACT National Field Rep

(From November Edition 2016)

Florida First Coast Chapter Officer Steward Training

Tennessee Army Chapter Dinner Meeting

West Virginia Air and Army Chapter Training

Bargaining For Your Rights

Les Hackett, Central Field Rep

(From November Edition 2016)

In July, the Kentucky Chapters of ACT, Army Long Rifle Chapter #83 and Air the Blue Grass Air Chapter #69 were set to begin Contract negotiations with the TAGs Managements team. A few days prior to the first scheduled negotiating session management representatives informed the union that they would not come to the bargaining table if the union negotiating team would include ACTNAT Central Field Rep, Les Hackett. Management claimed that the memorandum of understanding (MOU) limited ACTNAT participants to observing the negotiations not engaging in the actual negotiating process.

Although the chapters were caught a bit by surprise they communicated their strong disagreement with management's attitude and notified the TAG that they had a statutory right to be represented by anyone of their choosing to include ACTNAT Field Reps and a ULP may be filed with the Federal Labor Relations Authority (FLRA). The Chapters could have suspended negotiations and filed a ULP but in an effort to get the contract negotiations under way they decided to engage in the initial negotiation sessions with Les as an observer.

They also hoped that management would relent in its objection to ACTNAT Reps participating as negotiators and avoid a ULP. Unfortunately after two weeks of negotiations they had not changed their attitude. Due to managements continued obstructions Chris Searcy, chief negotiator and Army Chapter President, delivered a ULP pre-charge to the TAGs representatives. This pre-charge was a contractual obligation that the charging party, in this case the union, was going to actually file a formal ULP charge. Upon receiving the ULP pre-charge the Kentucky TAG immediately suspended future scheduled bargaining sessions and refused to continue contract negotiations pending the outcome of the ULP. Mr. Searcy then filed an unfair labor practice charge, with the FLRA, against the Kentucky Army National Guard to compel management officials to return to the bargaining table and allow the union to choose its representatives.

Eventually the FLRA reviewed the ULP charge and determined that the unions charge against the agency was justified. Prior to charging the KYNG with a ULP the FLRA brokered a settlement agreement in which management retracted their objections to allowing the union to assemble the negotiating team of its choosing and agreed to return to the bargaining table to continue contract negotiations. Once the settlement was signed ACT then withdrew the ULP. The bottom line is that the union has the statutory right to utilize any representative it chooses.

Whether it chooses a local member, ACTNAT Rep or hires an attorney the Agency cannot dictate or object. If management ever tells you that you cannot bring a regional field rep into contract negotiations, they are misinformed. ACTNAT prefers you do include a regional field representative on your team. They are the subject matter experts with years of experience negotiating contracts and dealing with management. ACT works tirelessly to bargain for your rights again proving ACT works for YOU!

On the next page is a copy of the signed settlement agreement from the LRS and Chapter President.

SETTLEMENT AGREEMENT

In resolution of FLRA unfair labor practice (ULP) charge, Case No. CH-CA-16-0474, filed by the Association of Civilian Technicians (ACT), Long Rifle Chapter #83 (the Union), against the Kentucky Army National Guard, Frankfort, KY (the Agency), the Agency and the Union hereby agree as follows:

1. The Authority has long held that it is within the discretion of the representatives of an agency and the representatives of a labor organization holding exclusive recognition to designate their respective representatives when fulfilling their obligations under the Federal Service Labor-Management Relations Statute.

2. On January 5, 2016, the Agency and the Union executed a Memorandum of Understanding (MOU) establishing ground rules and joint procedures for negotiating a collective bargaining agreement (CBA).

3. Item #6c of the parties' MOU states: *During negotiation sessions each team will have one chief spokesperson. Negotiations teams shall have a minimum of four members (two Army and two Air) present. Alternate members from each side may attend negotiations sessions as an observer on official time. With mutual concurrence each side has the right to call subject matter experts (SME), on official time, for the express purpose of providing information on a particular area of concern.* ***National and/or Agency level observers are allowed for both teams. Neither SMEs nor observers may participate in actual negotiations.*** *Except upon concurrence of both sides, SMEs will depart upon completion of their presentation.*

4. The Agency believes they have a good faith reading of Item #6c of the parties' MOU, set forth in its entirety in the preceding paragraph, but agrees that it does not clearly and unmistakably waive the Union's right to determine the composition of its negotiating team and to designate ACT's Regional Field Representative, Les Hackett, or any other regional or national level ACT representative of its choosing, as a member of its negotiating team for the purpose of negotiating a CBA.

5. Upon the execution of this agreement, the Agency and the Union agree to resume CBA negotiations in good faith and with a sincere resolve to reach agreement.

6. The Union agrees to withdraw Case No. CH-CA-16-0474 upon the execution of this agreement by the parties.

For the Agency:

Jean Coulter — 31 October 2016

Jean Coulter, LRS — Date

For the Union:

31 OCT 16

Christopher Searcy, President — Date

Changing of the Guard

By Bill Wilcox

Unless you've been hiding in a cave for the last few weeks, you have probably figured out that Washington is experiencing a "changing of the guard." And, unless you've been exiled to Siberia for the last few years, you have probably come to the conclusion that there is a changing of the Guard – the National Guard.

Along with increased deployments, less benefits, added military responsibilities, and fewer people, National Guard Technicians continue to push forward under the same, outdated Technician Act of 1968. Recently, however, there was an interesting change that gave cause to take notice. Section 1053 of the 2016 NDAA required that at least 20% of the National Guard civilian Technician workforce be converted to Title 5 (not Title 32), competitive (non-dual status) positions. It should go without saying that this is a huge step forward! Perhaps someone in Washington is catching on to the idea that the Technician workforce is being treated unfairly in regard to the dual status, excepted appointments.

For many years, ACT has worked to secure a change to the Technician Act of 1968 to ensure that National Guard technicians received the same benefits and compensation as every other civil service counterpart receives. Brothers and sisters, it is imperative that we push our representatives to enact this provision. It is also imperative that we continue to bring to light the fact that we do not receive overtime benefits, that we must be tied to our military position in order to maintain our "bread-and-butter" job, and that we must rely on our grievances to be decided upon by our very boss that we place grievances against. Please call your Congressman or Senator and "enlighten" them to these three facts.

The Guard is changing. Whether you accept it or not, the Guard is changing. Just as some voters recently found out, reality and change can intermingle. Sometimes change is not a bad thing. Perhaps with a unified Congress and Senate and a Washington outsider as President, we can finally see the change we need to happen. Now, here is the "but." But, it will never change unless we make clear the unfairness of our situation. Change only comes when people stand up and make known their clear intentions. No doubt, Washington is reeling from the winds of change. Let's do the same! We can start by demanding enforcement of this new requirement. It's a start in right direction. We can have a changing of the Guard that benefits us for once!