Association of Civilian Technicians act

THE TECHNICIAN

August - September - October 2020 | *Keep the Faith* Issue #4 , Vol. 78

ELECTION, LEGISLATION, MONEY AND MORE

Duty • Dignity • Dedication

Election 2020 PAGE 04

Dues Revocation PAGE 10
Tom Mahoney

Who's got the Money? PAGE 12
Tim Keesecker

Back Pay PAGE 14
New Jersey Chapter 124

TABLE OF CONTENTS

4 **Election 2020**
Vote!

6 **Legislative Update**
Les Hackett

9 **Dues Revocation**
Tom Mahoney

10 **Agency-Imposed Agreement**
Kentucky Chapter Challenges

12 **Who's got the Money?**
Tim Keesecker

14 **Back Pay**
New Jersey Chapter 124

09 : **STORY**

Dues Revocation

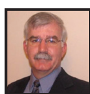
Tom Mahoney

04-05: **STORY**

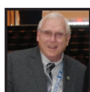
Election 2020

Vote Now!

NATIONAL OFFICERS


Terry Garnett
National President
tgarnett@actnat.com / 703-494-4845

Robert Niemer
Executive Vice President
rniemeract@gmail.com / 608-843-0317

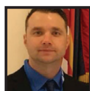

Tim Keesecker
Treasurer
timkeesecker@actnat.com / 402-429-4436

Steve Fisher
Secretary
sfisher@actnat.com / 703-899-7890

Gene Fuehrer
Northeast VP
gfuehrer@actnat.com / 402-416-4520

Felicia Neale
Southeast VP
vneale1@yahoo.com / 340-513-7539

John Sappington
Northwest VP
herchammer@gmail.com / 816-284-1462


Rick Wrenn
Southwest VP
richardww427@gmail.com / 267-980-1534

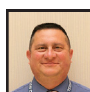
ACT NATIONAL FIELD REPRESENTATIVES

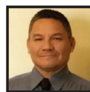
Les Hackett - Legislation Director
lhackett@actnat.com / 703-690-1330

Travis Perry
Northeast Region
tperry@actnat.com / 703-843-2153

VACANT - Southeast Region

Tom Mahoney
Central Region
tmahoney@actnat.com / 703-843-2159


Steve Olguin
Midwest Region
solguin@actnat.com / 703-843-2156


Julio Romero
Western Region
jromero@actnat.com / 703-843-2157

membership.info@actnat.com
Phone: 703-494-4845
Fax: 703 494-0961
www.ACTnat.com
www.chooseACT.com
twitter.com/ACTNAT

If ACT National does NOT have your current personal email address (not .mil)

You will NOT be able to vote in the upcoming election scheduled for September / October 2020.

Please contact ACT National at the following two email addresses

admin@actnat.com or dgarnett@actnat.com
to update your membership email information

THANK YOU

2020 ACT ELECTIONS

ACT National Elections will be conducted through email. Your VOTE matters so please ensure that we have your email address. We need your personal email address at the national office.

Send name & email address to:
admin@actnat.com or dgarnett@actnat.com

2020 ACT ELECTION

BE SURE TO VOTE

September 25 – October 26 2020 via email

Legislative Update

Les Hackett
ACT Legislative Director

Now that both Houses of Congress have passed their respective versions of the 2021 National Defense Authorization Act (NDAA) I wanted to update the membership concerning our 2020 legislative goals as they pertain to what actually has made it into each bill. Since there are always differences between the two bills the next step in the legislative process will be each House appointing members as negotiators (called conferees) to iron out the differences between the House and Senate versions so one bill can be considered and voted on by each House. This will probably take place in September. Once both Houses pass the 2021 NDAA with identical language it will sent to the president for signature. Although presidents often threaten to veto the NDAA due to disagreements over policy issues things always seem to be worked out since the NDAA has been passed each year for over 60 years. For that reason ACT attempts to use the NDAA each year as a vehicle to get our legislation passed.

The first thing we normally look at in each NDAA is 400 Section of the bill which include the end strength numbers that are authorized for each fiscal year (FY) (in this case FY 2021). Section 400 authorizes the number of Active Duty and Reserve component members for each component. It also authorizes a maximum AGR strength, a minimum number of technicians to be employed at the end of each FY (30 Sept) plus it authorizes the maximum number of Reserve personnel authorized to be on active duty for support operations. Authorizations are the number of personnel Congress will pay for each FY. More bad news on the ANG side. If the NDAA passes as currently written the ANG will eliminate another 2,575 technician positions. (FY 2020-13,569/ FY 2021-10,994). The positions will be converted to AGR authorizations in FY 2021. If these additional cuts pass that will bring the total conversion of technician to AGR authorizations to 8,141 for the last 3 Fiscal years. We will continue to communicate with Congressional staffers our strong opposition to the continued conversion technician positions to AGR and advocate for reversing this ill-advised policy. Unfortunately Congress seems to be buying into the ANGs snake oil sale that these conversions will improve mission capable flight time. That's despite all the studies and reports over the years that identify the increased cost of conversion with no evidence of improving the mission.

The Senate version does include the anti-conversion language again this year but the House version does not. So we will also be advocating for including the Senate anti-coercion language in the final bill to provide some push back against the coercive tactics states have been used on some technician to get them to convert the last 2 years. Everything is pretty quiet on the Army side concerning end strength. Both technician and AGR authorizations remain unchanged from FY 2020 at 22,294 and 30,595 respectively. So it seems the big push for AGR conversions is on the ANG.

Besides authorizing spending money on the military the NDAA is usually full of policy issues also. For example the new 12 week paid parental leave option was enacted through the 2020 NDAA even though it intended to cover most federal employees-not just those at DoD. This is why we attempt to convince members of House and Senate Armed Services Committees to include our bill language in the NDAA. Unlike stand-alone Bills the NDAA always passes.

As you may recall our Hill packets contained four basic legislative initiatives. One-Making federal employees eligible for TRICARE Reserve Select (TRS) immediately rather than 2030 as present law dictates. Two-Doubling military leave available to federal employees for Guard/ Reserve duty from 15 to 30 days. Three-Requiring DoD to convert technicians- who lose their military status through no fault of their own- to Title 5 employees until they qualify for early retirement.

As I have reported before we submitted requests to have our language included in the base 2021 NDAA Bill to two members of the House Armed Services Committee (HASC). We submitted the military leave Bill to Rep. Jared Golden (D-ME) and we submitted the retention of technicians-after Guard separation-language to Rep. Ruben Gallego (D-AZ). Although we had initial positive commitments from these offices I don't see our language in either bill. Unfortunately it appears the HASC and SASC leadership restricted amendments to the 2021 NDAA so that all Congressional energy is can be focused on the health and economic issues caused by COVID-19 outbreak. Plus Congressional members also want to finish business so they can go home and look for votes for Nov. 3rd. So while this Congressional session started out looking very promising when we had our rally in Feb. once the COVID crisis began it basically pushed other issues to the side.

Legislative work can be frustrating. Just when you think you have convinced legislators to move in your direction and enact legislation to resolve an issue the rug gets pulled out-in this case it was COVID. But we will continue to educate Congress on the technician/ federal employee issues that can be solved through legislation. It took us decades to convince Congress that technicians deserved the same appeal rights as most other feds when facing job actions that they felt were unjustified. We have to keep up the fight for ACTs legislative goals in hopes of improving our memberships work life and ensure they can realize their career goals.

VOTE!

Dues Revocation

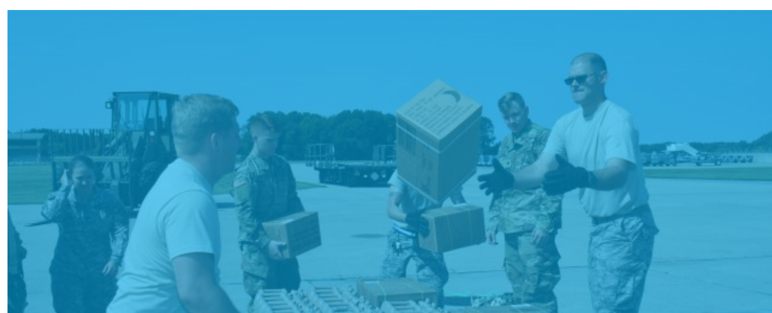
Tom Mahoney
National Field Rep

Many chapters are experiencing union dues being stopped without management processing a SF1188 or management processing SF1188 before the statutory time frame or outside the time frame found in your contract (CBA). The statute §7115(a) reads in part....” any such, assignment [dues withholding’s] may not be revoked for .... 1 year” (Emphasis added). Please check your CBA time frame.

Besides reminding the readers of statutory and contractual requirements regarding dues allotments I want to share a related experience. During negotiations management discussed a proposal allowing employees to withdraw union dues at “anytime”. I admit I was surprised at the proposal. In my 20 plus years of working contracts this topic had never come to the table.

However, even more surprising was managements reason for the proposal. Management believed the 2018 US Supreme Court Janus Decision made this a fair proposal (I couldn’t have made this up). We quickly shared the statute cited above and clarified who was impacted by the Janus Decision. I want to share that clarification.

Law permits Public employees to unionize. Public is defined as Private Sector and State or Municipal (we are FEDERAL) employees. Just like ACT; public unions engage in collective bargaining with their employer and individual employees may not be represented by another union or negotiate directly with their employer. Unlike ACT, some public unions required non-members to pay an “administrative fee”. The administrative fee is a percentage less than the total fee for being a full union member. The administrative fee ensured all employees shared the cost of collective bargaining. Why not share the cost since all employees benefit from collective bargaining. The Janus Decision lifted the requirement for non-members to pay an “administrative fee”. Non-members now reap the benefits gained thru negotiations. These employees are referred to as “free riders”. Sound familiar. This was my cliff note version. You can search for and read the full text of the decision or read a related topic “Right to Work States”.



Meanwhile back at the ranch. We have to enforce our CBA procedures. Your (chapter)@actnat.com account receives a dues run each pay period from the ACT National Office. The dues run lists member names, the amount of dues withheld for each member. The total of dues money sent to your chapter account. Use the dues run to stay on top of who are members in your chapter.

Management in some states are slow to process the SF1187 for starting dues withholdings, but lightening fast in stopping dues. You should be comparing dues runs to identify any reduction or gains. Gains or reductions are easily identified in the dues total column. A reduction usually means a member is LWOP or a member has had dues stopped with or without a SF1188. Most CBA’s require management to provide the union a SF1188 one pay period prior to processing.

Receiving a SF1188 prior to processing allows you to challenge the reason dues are being stopped. Inversely a gain in the grand total means someone is back from LWOP or you have a new member. Share the dues run with your stewards. Steward’s should be aware of members outside their area and be made aware an actual dues run exists. Knowing of gains allows us to welcome back a deployed member, acquire the new members’ email, and assist a new member with submitting the AD&D insurance form.

Additionally, knowing your membership activity aides in your goals for retaining and rewarding members as well as recruiting new members. Do you know how many members are in your chapter or the results of your recruiting efforts? Step up, help out, and Keep the Faith.

Kentucky Chapters Challenge Agency-Imposed "Agreement"

Dan Schember
ACT General Counsel

The Bluegrass and Long Rifle Chapters have demanded arbitration of grievances challenging an extraordinary series of agency actions that seek to implement unilaterally a document claimed by the agency to be the parties' new collective bargaining agreement—though this "agreement" never was signed by any union representative and contains provisions to which the Chapters never agreed.

How did this come about? Here's the story.

After protracted contract negotiations produced agreement on provisions initialed by the parties, the agency—claiming authority under Trump Executive Orders (EOs)—demanded negotiation of new agency proposals contrary to provisions that had been initialed.

The Chapters, however, declined to reopen these initialed provisions. They pointed to the parties' negotiation ground rules agreement, which says that re-negotiation of initialed provisions can occur only by mutual consent.

As for the Trump EOs, the Chapters said these EOs, by their own terms, do not supersede any pre-existing

collective bargaining agreement. The Chapters said the ground rules agreement is a collective bargaining agreement (as it is subject to agency head review); and this agreement was executed long before the EOs were issued. So, the EOs, by their own terms, are not a proper basis for requiring reopening of any initialed provision, absent mutual consent.

The agency's response was, to say the least, remarkable. The agency concocted an "agreement" comprising provisions desired by the agency, signed this "agreement," wrote on the union signature lines "unavailable to sign," and submitted this "agreement" to the head of the agency for review—as if the document were a mutually executed collective bargaining agreement!

The agency head review authority, the Defense Civilian Personnel Advisory Service (DCPAS), at first treated this "agreement" as if it were a genuine executed collective bargaining agreement. Apparently, DCPAS overlooked the absence of any union signature. DCPAS issued a standard memorandum disapproving the "agreement" based merely on determination that some of its provisions were contrary to law.

The Chapters, however, upon receiving this partial "disapproval" of the "agreement," informed DCPAS that the union never had executed the document. DCPAS then readily acknowledged that it had issued its disapproval memorandum in error. DCPAS said, correctly, that there appeared to be no agreement at all. Accordingly, DCPAS withdrew its memorandum.

So, what did the agency do next? Again remarkably, the agency declared that, because DCPAS had neither approved nor disapproved the "agreement" within 30 days of its "execution" (solely by the agency), the "agreement" under 5 U.S.C. § 7114(c) became effective as of May 2, 2020!

The agency then took action to enforce this alleged May 2 "agreement." It issued memos cancelling rights provided by the parties' 2012 collective bargaining agreement.

Under the 2012 agreement, the union is entitled to both an office on agency premises and use of other agency facilities. Also, certain employees may wear T-shirts and Ball Caps at work.

The agency's memos, however, asserted that these rights no longer exist, because the "May 2, 2020 agreement" supersedes the 2012 agreement; and the May 2 "agreement" does not grant these rights.

The Chapters grieved. They said the 2012 agreement is still in effect. They said this is because the negotiation ground rules agreement says the 2012 agreement remains in effect until it is superseded by a new agreement. The Chapters said the "May 2 agreement" is not a valid new agreement, so the 2012 agreement remains in effect.

The agency, no surprise, denied the grievances and the Chapters have invoked arbitration.

Stay tuned for updates on this extraordinary case.

Money, Money, Who's got the money?

ACT National Treasurer

By Tim Keesecker

Can you answer the following questions? Do you know how your chapter is spending your dues money? Do you know the value of your chapter's assets? Does your chapter present financial reports at your meetings? When was the last financial audit? Who did the last audit? Do you know where the funds are kept? Do you know who your Treasurer is? Do you even have a Treasurer? Do you know who has access to your chapter's funds? You have every right to know your chapter's worth, who controls the funds, who has access to the funds and where the funds are kept. If you can't answer any of them you owe it to yourself to find out. It's your money; you have the right to know. Start by asking your officers for answers.

If you don't get answers from your officers please contact your area representatives or me at TimKeesecker@actnat.com. We can help you track down who controls your funds. In the past few years there have been several embezzlements of chapter funds. As a local chapter Treasurer since the late 1990s I don't understand how elected officers can steal from their union brothers & sisters. How they think they won't get caught or called to account is beyond me. They will ultimately get caught. They will ultimately pay the price for their betrayal and thievery.

I understand the ups and downs with all the deployments can cause disconnects within the chapter. Chapter officers get deployed, communication suffers and the deployed have a whole new set of issues to deal with. Someone needs to stop, start asking questions and tracking down the truth. As the current National Treasurer I strongly suggest you be the one asking the questions and hold your officers accountable. I urge you to take the time to find out about your chapters funds, where they are and who is protecting them. Keep the faith.

Treasurers Corner

By Tim Keesecker
ACT National Treasurer

There used to be an article in the Technician called the "Treasurer's Corner". I would like to bring it back starting with this one. I will endeavor to keep it relevant. There are many rules and regulations pertaining to safeguarding chapter funds. I will include links to appropriate websites so you can get more in depth information. I'll begin with highlights from a fact sheet put out by the Office of Labor-Management Standards (OLMS).

What are the Labor-Management Reporting and Disclosure Act (LMRD) recordkeeping requirements relating to reports?

Unions must maintain financial records and other related records that clarify or verify any report filed with the OLMS.

Who is responsible for maintaining these records?

The president and treasurer, or the corresponding principal officers, must ensure that unions maintain adequate records.

How long do I have to keep these records?

Records must be retained for 5 years after a report is filed. Financial records must be maintained for 7 years by IRS rules. Current year and the previous 6 years is the standard.

What kinds of records do I have to keep?

Because of the wide diversity of recordkeeping systems used by international and national unions and their affiliates, it is not possible for OLMS to precisely define what records must be maintained by every union. Generally, you should retain all types of records used in the normal course of doing business. Examples of records you should retain include receipts and disbursement journals, cancelled checks and check stubs, bank statements, dues collection receipts, employer checkoff statements, per capita tax reports, vendor invoices, payroll records, etc. Most unions do retain such records but often fail to keep other records that help explain or clarify financial transactions. Here are some examples of other records you should keep:

- Credit card statements and itemized receipts for each credit card charge
- Member ledger cards for former members
- Union copies of bank deposit slips
- Bank debit and credit memos
- Vouchers for union expenditures
- Internal union financial reports and statements
- Minutes of all membership and executive board meetings
- Accountants' working papers used to prepare financial statements and reports filed with OLMS
- Fixed assets inventory
- If you are not sure, keep the record or seek advice from your nearest OLMS field office.

Must I retain electronic documents?

Yes. You must retain any electronic documents, including recordkeeping software, used to complete, read, and file the report.

Must I only retain the records that my union chooses to create, or is my union required to create certain records?

A union must create and retain adequate backup records that will verify the reports filed with OLMS. Likewise, a union must obtain adequate backup records such as receipts and vouchers from parties with whom the union engages in financial transactions.

If you are an officer and have questions please contact me at TimKeesecker@actnat.com or your Area Representative. A good place to start learning about the required reports and forms can be found at https://www.dol.gov/olms/regs/compliance/compllmrda.htm

NEW JERSEY CHAPTER 124 SEEKS BACK PAY FOR EGG HARBOR MAINTAINERS

By Dan Schember ACT General Counsel

Fifteen years ago, on April 19, 2005, the National Guard Bureau (NGB) under 5 U.S.C. § 5305 approved "higher minimum rates of pay" for New Jersey National Guard aircraft maintenance and support technicians. The minimum rate became Step 5 pay for maintainers in every grade.

Then, nearly twelve years later, on January 6, 2017, NGB by email, "Subject: Link to McGuire FWS," informed the NJ Guard that, because "McGuire falls under 094 / New York," the Guard could no longer "use the . . . the 19 Apr 2005 [NGB] memo to give advance in hire rate for these individuals." (Emphasis added.)

OK so far. But then, a little over two weeks later, on January 23, 2017, a different NGB official sent the NJ Guard an email, "Subject: . . . Joint Base McGuire Dix Lakehurst (JBMDL) Pay Disparity (Staffing)," which also attached the January 6 email. The January 23 email said:

[The January 6 message] provided the link to DCPAS [Defense Civilian Personnel Advisory Service] and this website validated that the 094 New York Pay Table applies to New Jersey. . . . [T]he JFHQ-New Jersey HRO is not authorized to apply the TN Memorandum, dated April 2005, to give advance in-hire rate for those affected employees . . . because the 2005 TN memorandum is no longer applicable to the New Jersey National Guard employees. [Emphasis added.]

Earth to NGB. Time for a U.S. geography and unit location lesson. First, take out your U.S. atlas—you know, the one that you saved from fifth grade. See that there is a whole lot of New Jersey that is quite far away from New York. Second, with your suspicions duly aroused, go to the link that you referenced in your own emails and learn, as the atlas must have caused you to suspect, that there is a whole lot of New Jersey that is not within "the 094 New York Pay Table." Third, get out your handy guide to New Jersey Guard units and learn that one of them is the 177 FW—a unit quite likely, don't you think? to employ aircraft maintenance and support technicians. Fourth, complete your lesson by discovering that, contrary to the Subject of your January 23 email, the 177 FW is not located at Joint Base McGuire Dix Lakehurst; rather, it's at Egg Harbor, way outside "the 094 New York Pay Table." Finally, put one, two, three, and four together and realize that you have made a big mistake—one that, frankly, persons at your pay grade should not have made.

The erroneous January 2017 termination of the properly authorized "higher minimum rates of pay" for Egg Harbor aircraft maintainers created a "Pay Disparity"—of which New Jersey Guard officials apparently were immediately aware—between the Egg Harbor maintainers and the maintainers at McGuire Dix. The latter were and are under "the 094 New York Pay Table." The Egg Harbor maintainers were and are in the 115 Philadelphia PA Wage Area, not the 094 New York Wage area, and the 115 pay table is lower than the 094 pay table.

Despite their apparent immediate awareness of this "Pay Disparity," New Jersey Guard officials—it appears from the limited documentation we have been provided, despite requests for all relevant documents—did nothing more than submit to NGB an "INBOX inquiry" concerning the "Pay Disparity," and then meekly accepted, without further communication, NGB's erroneous assertion that the minimum hiring rates approved in 2005 must be terminated throughout New Jersey, due solely to "the 094 New York Pay Table" applicable to "McGuire Dix."

If anyone was in a position in January 2017 to provide NGB the geography and unit location lesson needed to prevent the erroneous termination at Egg Harbor of the properly authorized minimum hiring rates—and thereby prevent the resulting "Pay Disparity" between Egg Harbor and McGuire Dix—it was New Jersey Guard officials. Yet, for all the documentation we have, it appears they did nothing in January 2017 to correct NGB's obvious, egregious error. As noted, it appears they merely submitted an "INBOX inquiry" to NGB (which we have not seen, despite our request for it), and then accepted and implemented NGB's erroneous response.

Fast forward to March 2020. New Jersey Guard officials, it appears, woke up. By March 31, 2020, emails to Egg Harbor maintainers, the NJ HRO said, "It was determined through 177th FW Leadership to re-implement the New Jersey National Guard - Increased Minimum Hiring Rate Program. As a result, your position has been identified as eligible for a retroactive step increase to Step 05."

Retroactive! Great. But there was a catch. The increase would be retroactive only to October 2019, not to January-February 2017, when the erroneous termination of the increased minimum hiring rate began.

ACT Chapter 124, with Tim Hinlicky on point, has filed a grievance seeking fully retroactive increases, with interest, under the Back Pay Act. In a March 23, 2020, memorandum, the agency acknowledged that the 2017 termination of the Step 5 minimum hiring rate at Egg Harbor "was incorrect." The 177 FW, however, maintains that there is not enough money in its budget to pay retroactive increases before October 2019.

The union's position is simple. The Back Pay Act says employees wrongly denied pay are entitled to recover all of it, with interest—not just whatever portion happens to be in their unit's current budget.

Better late than never is a valid concept. But, when you have started an ongoing car wreck, applying the brakes two and a half years later is not enough. You need to pay the damage you have caused from day one.

KEEP THE FAITH

DUTY • DIGNITY • DEDICATION

www.chooseACT.com
www.ACTnat.com

Fourth Largest Labor Organization within DoD