

State of Connecticut
HOUSE OF REPRESENTATIVES
STATE CAPITOL
HARTFORD, CONNECTICUT 06106-1591

REPRESENTATIVE MARY M. MUSHINSKY
EIGHTY-FIFTH ASSEMBLY DISTRICT

LEGISLATIVE OFFICE BUILDING
ROOM 4038
HARTFORD, CT 06106-1591
HOME: (203) 269-8378
CAPITOL: (860) 240-8500
TOLL FREE: 1-800-842-8267
E-mail: Mary.Mushinsky@cga.ct.gov

CO-CHAIR
PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

MEMBER
ENVIRONMENT COMMITTEE
FINANCE REVENUE AND BONDING COMMITTEE

**Testimony of Rep. Mary Mushinsky (85th) in Support of HB 6348, An Act
Concerning State Military Service**

Before the Veterans' Affairs Committee
Tuesday, February 19, 2013 1:00 p.m. in Room 1E

I seek the committee's assistance in amending this bill, which concerns benefits connected with prior military service, to clarify an unclear statute regarding honorary promotions for residents who have served in the National Guard. In my constituent's case, he served nearly his entire career in the National Guard, then at the very end switched to the Army Reserves. He now finds he is disallowed from honorary promotion in the National Guard because his final retirement year was from the Reserves.

This is an unexpected and unwelcome interpretation of "retired member of the Connecticut National Guard or the governor's military staff," and the legislative history does not discuss the issue. As a result, many decades of service by my constituent have been disregarded. I have attached the OLR report on this definition as well as my proposed bill HB 6062. I request the committee amend HB 6348 to add language per HB 6062 to allow a veteran with more than 20 years of service to the National Guard to qualify for honorary promotions.

Thank you for any consideration you can provide my constituent and other veterans in his situation.



OLR RESEARCH REPORT

September 27, 2012

2012-R-0452

NATIONAL GUARD HONORARY RETIREMENT

By: Veronica Rose, Chief Analyst

You asked us to explain the law governing Connecticut National Guard honorary retirement promotions, particularly as it relates to promotions for members who apply after they retire. Your constituent was denied retirement promotion on the grounds that he is not a retired Connecticut National Guard member.

This office is not authorized to give legal opinions and this response should not be construed as such.

SUMMARY

By law, a retired member of the Connecticut National Guard or governor's military staff who meets specified criteria is eligible for an honorary promotion to one grade above the highest grade in which he served while in the state or U.S. Armed Forces or on the governor's military staff. The law does not define "retired member of the Connecticut National Guard or the governor's military staff," and the legislative history of the bill, which became law, does not discuss the issue. But a plain reading of the statute suggests that retiring from a branch of the armed services other than the Connecticut National Guard does not qualify an applicant for retirement promotion.

According to Lieutenant Colonel Timothy Tomcho, your constituent did not retire from the Connecticut National Guard; instead, he transferred from the National Guard to the U.S. Army Reserves and retired while serving as a reservist. Thus, he is a retired member of the Reserves, not a retired National Guard member. And because he is not a retired National Guard member, he is not eligible for retirement promotion.

RETIREMENT PROMOTION LAW

By law, members of the Connecticut National Guard or governor's military staff who have 10 years of honorable service may, before retiring from active service, apply to the adjutant general of the National Guard to be placed on a list of retirees maintained by the National Guard (retired list) in the highest grade in which they ever served. Members who have 20 or more years of service may

apply to be commissioned or promoted and placed on the list at one grade above the highest grade in which they ever served in the U.S. Armed Forces, in the Connecticut National Guard, or on the governor's military staff, but not above brigadier general or sergeant major (CGS § 27-53).

The law also allows retired members of the armed forces of the state (i.e., Connecticut National Guard) or governor's military staff (1) who served for 30 or more years, (2) whose service was honorable, and (3) who did not apply for retirement promotion while in service to apply and be promoted on the same terms as applicants with 20 years of service.

The statute does not define "retired member of the armed forces of the state or governor's military staff." And the legislative history of the legislation is not helpful in this regard. But "in the construction of the statutes, words and phrases shall be construed according to the commonly approved usage of the language; and technical words and phrases, and such as have acquired a peculiar and appropriate meaning in the law, must be construed and understood accordingly" (CGS § 1-1).

A plain reading of the honorary retirement statute appears to indicate that the baseline qualification for the retirement promotion is that the applicant must have retired from the Connecticut National Guard or the governor's military staff, not just meet the 30-year service requirement. An applicant who retires from a branch of the armed services other than the Connecticut National Guard does not meet the baseline qualification and does not qualify, even with 30 or more years of service in the armed services.

RETIREMENT VERSUS TRANSFER

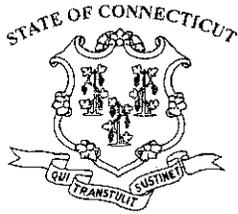
Based on a review of the documentation your constituent submitted and my conversations with Lieutenant Colonel Tomcho, your constituent's service record is not in question. What is at issue is whether he is a retired member of the Connecticut National Guard, given that when he retired, he was a member of the U.S. Army Reserves, not the Connecticut National Guard.

A Connecticut National Guard member may either request retirement or be required to retire (e.g., based on age or medical condition). In such cases, the National Guard issues retirement orders and the member is removed from active duty and placed on the retired list. Retired members are placed on the retired list. They are kept on the National Guard register and are subject to the National Guard's rules and regulations but are withdrawn from command, line of promotion, and unit rosters. They may, subject to law and regulations, wear the uniform of the rank at which they retired. They serve without pay but may consent to be detailed from the list and placed on active duty on the governor's order. In such cases, they are entitled to the same pay and allowances as officers of a similar grade on the active list (CGS § 27-54).

A Connecticut National Guard member who transfers to another branch of the service relinquishes his National Guard commission and becomes a member of, and is commissioned in, the branch of the service to which he transfers. A member who wishes to transfer must submit a written request for official processing.

According to Tomcho, the constituent, after many years of Connecticut National Guard service, transferred to the U.S. Army Reserves in February 1996. Once he transferred, he was no longer a National Guard commissioned officer; rather, he became a commissioned officer in the Reserves. In December 1996, the Reserves promoted him to colonel, and in June 2000, he retired from the Reserves. The constituent is therefore a retired member of the Reserves, not a retired member of the Connecticut National Guard. And because he did not retire while serving as a National Guard member, he is ineligible for the retirement promotion.

VR:ts



General Assembly

January Session, 2013

Proposed Bill No. 6062

LCO No. 1837

Referred to Committee on VETERANS' AFFAIRS

Introduced by:
REP. MUSHINSKY, 85th Dist.

**AN ACT CONCERNING HONORARY RETIREMENT PROMOTIONS
FOR MEMBERS OF THE ARMED FORCES OF THE STATE OR THE
GOVERNOR'S MILITARY STAFF.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 That section 27-53 of the general statutes be amended to clarify that
- 2 any member of the armed forces of the state or the Governor's military
- 3 staff who transfers to a reserve component of the United States Army,
- 4 Navy, Marine Corps, Coast Guard or Air Force prior to retiring
- 5 qualifies for the retirement promotions specified in said section.

Statement of Purpose:

To ensure that members of the armed forces of the state and the Governor's military staff who served honorably are recognized and honored for their service even if they transferred to a reserve component of the United States armed forces prior to retiring.