

Help Needed

The performance of the National Guard in the decade since 9/11 has been rightly ballyhooed and the force has celebrated its evolution from a strategic reserve to an operational force. But that success has bred trouble for some young Guardsmen trying to find a civilian job.

With an increased workload and more missions in the offing, the Guard has given potential employers a reason to look past the obvious skills and experience of 18- to 24-year-old job seekers. Today, say many officials, some employers see only the uniform, which they believe translates to long absences created by deployments and mobilizations.

“We’ve got to address the employment issue if we’re going to go forward with this operational force structure,” says Maj. Eric Christopher, the program manager for the employment section at the National Guard Bureau.

He acknowledges what is talked about but hard to prove—that some employers are taking a pass on young Guardsmen, which is why NGB says the unemployment rate for them is at 23 percent, or about eight percentage points higher than the overall rate for young adults.

“Basically, out of high school, they join the Guard and Reserve [and soon deploy],” Christopher says. “When they come home, they’re pretty much trying to search for that first civilian job.”

Too often, however, their search is futile.

This comes as no surprise to Ted Daywalt, the president and chief executive officer of VetJobs, which tracks veteran employment issues.

Daywalt has been a frequent witness on the issue before Congress. In fact, he told lawmakers in the spring that the jobless rate of young Guardsmen would spike, which it did.

“There is no incentive for employers to hire or keep on reservists—no subsidy, no tax break. Congress needs to step in and help out the employer.”

Lisa M. Windsor, Military Defense Attorney

“You hate it when you predict something [negative] and it comes true,” he says.

A veteran of the Navy and the Navy Reserve, Daywalt says it is a “little disturbing” to hear the way Congress talks about veteran employment.

“They hear the word ‘veteran’ and they think that’s all military,” he says.

They fail to differentiate between the active component and the reserve component, he says, specifically the National Guard, which has unique concerns when it comes to civilian employment.

Daywalt says he can predict which states are getting ready to deploy Guard units overseas by the calls coming in at the VetJobs headquarters in Marietta, Ga.

If a unit from South Carolina, for example, is being deployed, VetJobs will hear from South Carolina Guardsmen after the mobilization becomes public knowledge but before the deployment begins asking for help after being let go from their civilian jobs.

“Same thing in Oregon. Same thing in California. Same thing in Vermont. It doesn’t matter,” he says. “This is the reality of what’s happening.”

Employers, he asserts, are laying off Guard employees before they are legally bound to keep them. They are sidestepping the 1994 USERRA law, the Uniformed Services Employment and Reemployment Rights Act, which is designed to prevent discrimination by an employer because of an employee’s military service.

But Daywalt says it is happening and it is commonplace.

“Employers have figured out, ‘If I lay you off before you have orders in hand, I am not subject to USERRA,’” he says.

The phones at VetJobs ring, he says, anywhere from 160 to 90 days prior to mobilization. The callers are recently unemployed Guardsmen about to deploy.

“Initially, I had people tell me, ‘Oh, no, employers won’t do that,’” he says. “Well, yes, employers will.”

He says 99.9 percent of businesses are pro military. They understand the importance of a strong military and want to do all they can to help.

“The reality is, they can’t go broke doing it,” he says. “That’s the National Guard problem.”

The issue took off, he says, several years into the war on terrorism and soon after the Quadrennial Defense Review of 2006 declared the Guard an operational force and no longer a strategic reserve.

The unemployment rate for young veterans soon “exploded and it has stayed up there,” he says. Of course, that’s also about the time the recession hit.

He uses USERRA complaints as a guide. In 2007, he says, there were 5,333 USERRA complaints. That jumped to 12,069 in 2009, but skyrocketed to 34,612 in 2010.

“That is private industry saying, ‘We will not have our employees taken away for 10 to 12 months,’” he says. Now, with talk of cuts to the active-component force and new missions for the Guard, such as deployments to South Korea, the issue has only increased. Rather than hire a Guardsman only to release him or her prior to a mobilization, employers are simply not hiring them.

Daywalt uses as an example to make his point an employer faced with hiring an active-component veteran with no more ties to the military or a Guardsman still serving and subject to state and federal mobilizations.

“You ask yourself, ‘Who am I going to hire?’” he says. “It’s not going to be the person in the National Guard.” Christopher says this subject has been kicked around at the Guard Bureau.

“It’s a pretty sensitive issue, but that’s something we’ve been hearing,” he says.

He says, too, the culprit is partly the USERRA law. Designed to protect service members on the job, it may be having the opposite effect by putting a burden on the employer who loses some control over how that employee is treated.

Asked if the law needed strengthening, he says, “To give it more teeth may cause a greater problem.”

Lisa M. Windsor, an attorney with the law firm of Tully Rinckey in Washington, D.C., calls the USERRA law “a double-edged sword.”

Windsor, who spent 22 years with the Army's Judge Advocate General's Corps and still works with military clients, says, "The employer is not supposed to discriminate. On the other hand, it's so difficult to prove discrimination."

Plaintiffs rarely win USERRA cases, she says.

Plus, job applicants who don't get hired may never know if their service in the Guard was a factor in the employer's decision, she says.

"I think that's why you see a lot of reservists work for the state or federal governments," she says, because the hiring process is more transparent and job protection more absolute.

The answer may be to sweeten the pot for employers, make it more attractive for them to hire men and women serving in the Guard or Reserve.

"There is no incentive for employers to hire or keep on reservists—no subsidy, no tax break," Windsor says.

"Congress needs to step in and help out the employer."

Christopher says current efforts to make certification in military occupation specialties apply to civilian jobs are a big step. He says 81 percent of MOS's line up with civilian jobs, but require additional certification.

"If we could get these kids certified, it would make a huge difference.

That's where we're aiming," he says. But the key culprit is perception of the current operational tempo, Christopher says. As long as the Guard is being loaded with missions, employers will see a Guard employee is an absent employee.

Daywalt says there are several possible solutions. One is to give Guardsmen TRICARE health coverage to take that expense away from an employer.

Another is a strong mentoring program. More federal government employment for these people would help, too, he says, since agencies like the Bureau of Land Management, for example, are large enough to absorb the absences.

But the fix that would do the most good, according to Daywalt, is one that would make the Guard shudder and would further burden the defense budget. He would add tens of thousands of troops to the active component so the reliance on the Guard is diminished.

"You wouldn't have to use the National Guard like you are now," he says. "It would go back to being a strategic reserve."