

103^D CONGRESS
1ST SESSION

S. 185

To amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 26 (legislative day, JANUARY 5), 1993

Mr. GLENN (for himself, Mr. PRYOR, Mr. STEVENS, Mr. LIEBERMAN, Mr. LEVIN, Mr. AKAKA, Mr. SARBANES, Mr. CONRAD, Mr. SASSER, Mr. LEAHY, and Mr. DORGAN) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the “Hatch Act Reform
4 Amendments of 1993”.

1 **SEC. 2. POLITICAL ACTIVITIES.**

2 (a) Subchapter III of chapter 73 of title 5, United
3 States Code, is amended to read as follows:

4 “SUBCHAPTER III—POLITICAL ACTIVITIES

5 “§ 7321. **Political participation**

6 “It is the policy of the Congress that employees
7 should be encouraged to exercise fully, freely, and without
8 fear of penalty or reprisal, and to the extent not expressly
9 prohibited by law, their right to participate or to refrain
10 from participating in the political processes of the Nation.

11 “§ 7322. **Definitions**

12 “For the purpose of this subchapter—

13 “(1) ‘employee’ means any individual, other
14 than the President and the Vice President, employed
15 or holding office in—

16 “(A) an Executive agency other than the
17 General Accounting Office; or

18 “(B) a position within the competitive
19 service which is not in an Executive agency;
20 but does not include a member of the uniformed
21 services;

22 “(2) ‘partisan political office’ means any office
23 for which any candidate is nominated or elected as
24 representing a party any of whose candidates for
25 Presidential elector received votes in the last preced-
26 ing election at which Presidential electors were se-

1 lected, but shall exclude any office or position within
2 a political party or affiliated organization; and

3 “(3) ‘political contribution’—

4 “(A) means any gift, subscription, loan,
5 advance, or deposit of money or anything of
6 value, made for any political purpose;

7 “(B) includes any contract, promise, or
8 agreement, express or implied, whether or not
9 legally enforceable, to make a contribution for
10 any political purpose;

11 “(C) includes any payment by any person,
12 other than a candidate or a political party or
13 affiliated organization, of compensation for the
14 personal services of another person which are
15 rendered to any candidate or political party or
16 affiliated organization without charge for any
17 political purpose; and

18 “(D) includes the provision of personal
19 services for any political purpose.

20 **“§ 7323. Political activity authorized; prohibitions**

21 “(a) Subject to the provisions of subsection (b), an
22 employee may take an active part in political management
23 or in political campaigns, except an employee may not—

1 “(1) use his official authority or influence for
2 the purpose of interfering with or affecting the re-
3 sult of an election;

4 “(2) knowingly solicit, accept, or receive a polit-
5 ical contribution from any person, unless such
6 person is—

7 “(A) a member of the same Federal labor
8 organization as defined under section 7103(4)
9 of this title or a Federal employee organization
10 which as of the date of enactment of the Hatch
11 Act Reform Amendments of 1993 had a
12 multicandidate political committee (as defined
13 under section 315(a)(4) of the Federal Election
14 Campaign Act of 1971 (2 U.S.C. 441a(a)(4)));

15 “(B) not a subordinate employee; and

16 “(C) the solicitation is for a contribution
17 to the multicandidate political committee (as
18 defined under section 315(a)(4) of the Federal
19 Election Campaign Act of 1971 (2 U.S.C.
20 441a(a)(4))) of such Federal labor organization
21 as defined under section 7103(4) of this title or
22 a Federal employee organization which as of
23 the date of the enactment of the Hatch Act Re-
24 form Amendments of 1993 had a
25 multicandidate political committee (as defined

1 under section 315(a)(4) of the Federal Election
2 Campaign Act of 1971 (2 U.S.C. 441a(a)(4));

3 or

4 “(3) run for the nomination or as a candidate
5 for election to a partisan political office; or

6 “(4) knowingly solicit or discourage the partici-
7 pation in any political activity of any person who—

8 “(A) has an application for any compensa-
9 tion, grant, contract, ruling, license, permit, or
10 certificate pending before the employing office
11 of such employee; or

12 “(B) is the subject of or a participant in
13 an ongoing audit, investigation, or enforcement
14 action being carried out by the employing office
15 of such employee.

16 “(b)(1) An employee of the Federal Election Commis-
17 sion (except one appointed by the President, by and with
18 the advice and consent of the Senate), may not request
19 or receive from, or give to, an employee, a Member of Con-
20 gress, or an officer of a uniformed service a political
21 contribution.

22 “(2) No employee of the Federal Election Commis-
23 sion (except one appointed by the President, by and with
24 the advice and consent of the Senate), may take an active
25 part in political management or political campaigns.

1 “(3) For purposes of this subsection, the term ‘active
2 part in political management or in a political campaign’
3 means those acts of political management or political cam-
4 paigning which were prohibited for employees of the com-
5 petitive service before July 19, 1940, by determinations
6 of the Civil Service Commission under the rules prescribed
7 by the President.

8 **“§ 7324. Political activities on duty; prohibition**

9 “(a) An employee may not engage in political
10 activity—

11 “(1) while the employee is on duty;

12 “(2) in any room or building occupied in the
13 discharge of official duties by an individual employed
14 or holding office in the Government of the United
15 States or any agency or instrumentality thereof;

16 “(3) while wearing a uniform or official insignia
17 identifying the office or position of the employee; or

18 “(4) using any vehicle owned or leased by the
19 Government of the United States or any agency or
20 instrumentality thereof.

21 “(b)(1) An employee described in paragraph (2) of
22 this subsection may engage in political activity otherwise
23 prohibited by subsection (a) if the costs associated with
24 that political activity are not paid for by money derived
25 from the Treasury of the United States.

1 “(2) Paragraph (1) applies to an employee—

2 “(A) the duties and responsibilities of whose po-
3 sition continue outside normal duty hours and while
4 away from the normal duty post; and

5 “(B) who is—

6 “(i) an employee paid from an appropria-
7 tion for the Executive Office of the President;
8 or

9 “(ii) an employee appointed by the Presi-
10 dent, by and with the advice and consent of the
11 Senate, whose position is located within the
12 United States, who determines policies to be
13 pursued by the United States in relations with
14 foreign powers or in the nationwide administra-
15 tion of Federal laws.

16 **“§ 7325. Political activity permitted; employees resid-**
17 **ing in certain municipalities**

18 “The Office of Personnel Management may prescribe
19 regulations permitting employees, without regard to the
20 prohibitions in paragraphs (2) and (3) of section 7323 of
21 this title, to take an active part in political management
22 and political campaigns involving the municipality or other
23 political subdivision in which they reside, to the extent the
24 Office considers it to be in their domestic interest, when—

1 “(1) the municipality or political subdivision is
2 in Maryland or Virginia and in the immediate vicin-
3 ity of the District of Columbia, or is a municipality
4 in which the majority of voters are employed by the
5 Government of the United States; and

6 “(2) the Office determines that because of spe-
7 cial or unusual circumstances which exist in the mu-
8 nicipality or political subdivision it is in the domestic
9 interest of the employees and individuals to permit
10 that political participation.

11 **“§ 7326. Penalties**

12 “Any employee who has been determined by the Merit
13 Systems Protection Board to have violated on two occa-
14 sions any provision of section 7323 or 7324 of this title,
15 shall upon such second determination by the Merit System
16 Protection Board be removed from such employee’s posi-
17 tion, in which event that employee may not thereafter hold
18 any position (other than an elected position) as an em-
19 ployee (as defined in section 7322(1) of this title). Such
20 removal shall not be effective until all available appeals
21 are final.”.

22 (b)(1) Section 3302(2) of title 5, United States Code,
23 is amended by striking out “7203, 7321, and 7322” and
24 inserting in lieu thereof “and 7203”.

1 (2) The table of sections for subchapter III of chapter
2 73 of title 5, United States Code, is amended to read as
3 follows:

4 “SUBCHAPTER III—POLITICAL ACTIVITIES

“7321. Political participation.

“7322. Definitions.

“7323. Political activity authorized; prohibitions.

“7324. Political activities on duty; prohibition.

“7325. Political activity permitted; employees residing in certain municipali-
ties.

“7326. Penalties.”.

5 **SEC. 3. AMENDMENT TO CHAPTER 12 OF TITLE 5, UNITED**
6 **STATES CODE.**

7 Section 1216(c) of title 5, United States Code, is
8 amended to read as follows:

9 “(c) If the Special Counsel receives an allegation con-
10 cerning any matter under paragraph (1), (3), (4), or (5)
11 of subsection (a), the Special Counsel may investigate and
12 seek corrective action under section 1214 and disciplinary
13 action under section 1215 in the same way as if a prohib-
14 ited personnel practice were involved.”.

15 **SEC. 4. AMENDMENTS TO TITLE 18.**

16 (a) Section 602 of title 18, United States Code, relat-
17 ing to solicitation of political contributions, is amended—

18 (1) by inserting “(a)” before “It”;

19 (2) in paragraph (4) by striking out all that fol-
20 lows “Treasury of the United States” and inserting
21 in lieu thereof a semicolon and “to knowingly solicit
22 any contribution within the meaning of section

1 301(8) of the Federal Election Campaign Act of
2 1971 from any other such officer, employee, or per-
3 son. Any person who violates this section shall be
4 fined under this title or imprisoned not more than
5 3 years, or both.”; and

6 (3) by adding at the end thereof the following
7 new subsection:

8 “(b) The prohibition in subsection (a) shall not apply
9 to any activity of an employee (as defined in section
10 7322(1) of title 5) or any individual employed in or under
11 the United States Postal Service or the Postal Rate Com-
12 mission, unless that activity is prohibited by section 7323
13 or 7324 of such title.”.

14 (b) Section 603 of title 18, United States Code, relat-
15 ing to making political contributions, is amended by add-
16 ing at the end thereof the following new subsection:

17 “(c) The prohibition in subsection (a) shall not apply
18 to any activity of an employee (as defined in section
19 7322(1) of title 5) or any individual employed in or under
20 the United States Postal Service or the Postal Rate Com-
21 mission, unless that activity is prohibited by section 7323
22 or 7324 of such title.”.

23 (c)(1) Chapter 29 of title 18, United States Code,
24 relating to elections and political activities is amended by
25 adding at the end thereof the following new section:

1 **“§ 610. Coercion of political activity**

2 “It shall be unlawful for any person to intimidate,
3 threaten, command, or coerce, or attempt to intimidate,
4 threaten, command, or coerce, any employee of the Fed-
5 eral Government as defined in section 7322(1) of title 5,
6 United States Code, to engage in, or not to engage in,
7 any political activity, including, but not limited to, voting
8 or refusing to vote for any candidate or measure in any
9 election, making or refusing to make any political con-
10 tribution, or working or refusing to work on behalf of any
11 candidate. Any person who violates this section shall be
12 fined not more than \$5,000 or imprisoned not more than
13 three years, or both.”.

14 (2) The table of sections for chapter 29 of title 18,
15 United States Code, is amended by adding at the end
16 thereof the following:

“610. Coercion of political activity.”.

17 **SEC. 5. AMENDMENTS TO THE VOTING RIGHTS ACT OF 1965.**

18 Section 6 of the Voting Rights Act of 1965 (42
19 U.S.C. 1973d) is amended by striking out “the provisions
20 of section 9 of the Act of August 2, 1939, as amended
21 (5 U.S.C. 118i), prohibiting partisan political activity”
22 and by inserting in lieu thereof “the provisions of sub-
23 chapter III of chapter 73 of title 5, United States Code,
24 relating to political activities”.

1 **SEC. 6. AMENDMENTS RELATING TO APPLICATION OF**
2 **CHAPTER 15 OF TITLE 5, UNITED STATES**
3 **CODE.**

4 (a) Section 1501(1) of title 5, United States Code,
5 is amended by inserting “, the District of Columbia,” after
6 “State”.

7 (b) Section 675(e) of the Community Services Block
8 Grant Act (42 U.S.C. 9904(e)) is repealed.

9 **SEC. 7. APPLICABILITY TO POSTAL EMPLOYEES.**

10 The amendments made by this Act, and any regula-
11 tions thereunder, shall apply with respect to employees of
12 the United States Postal Service and the Postal Rate
13 Commission, pursuant to sections 410(b) and 3604(e) of
14 title 39, United States Code.

15 **SEC. 8. EFFECTIVE DATE.**

16 (a) The amendments made by this Act shall take ef-
17 fect 120 days after the date of the enactment of this Act,
18 except that the authority to prescribe regulations granted
19 under section 7325 of title 5, United States Code (as
20 added by section 2 of this Act), shall take effect on the
21 date of the enactment of this Act.

22 (b) Any repeal or amendment made by this Act of
23 any provision of law shall not release or extinguish any
24 penalty, forfeiture, or liability incurred under that provi-
25 sion, and that provision shall be treated as remaining
26 in force for the purpose of sustaining any proper proceed-

1 ing or action for the enforcement of that penalty, for-
2 feiture, or liability.

3 (c) No provision of this Act shall affect any proceed-
4 ings with respect to which the charges were filed on or
5 before the effective date of the amendments made by this
6 Act. Orders shall be issued in such proceedings and ap-
7 peals shall be taken therefrom as if this Act had not been
8 enacted.

○