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UNITED STATES CODE ANNOTATED
TITLE 5. GOVERNMENT ORGANIZATION AND EMPLOYEES
PART III--EMPLOYEES
SUBPART F--LABOR-MANAGEMENT AND EMPLOYEE RELATIONS
CHAPTER 73--SUITABILITY, SECURITY, AND CONDUCT
SUBCHAPTER III--POLITICAL ACTIVITIES

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Current through P.L. 106-170, approved 12-17-99

§ 7323. Political activity authorized; prohibitions

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

(1) use his official authority or influence for the purpose of interfering with or affecting the result of an election;

(2) knowingly solicit, accept, or receive a political contribution from any person, unless such person is--

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

(B) not a subordinate employee; and

(C) the solicitation is for a contribution to the multicandidate political committee (as defined under section 315(a)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(4))) of such Federal labor organization as defined under section 7103(4) of this title or a Federal employee organization which as of the date of the enactment of the Hatch Act Reform Amendments of 1993 had a multicandidate political committee (as defined under section 315(a)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(4))); or

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

(4) knowingly solicit or discourage the participation in any political activity of any person who--

(A) has an application for any compensation, grant, contract, ruling, license, permit, or certificate pending before the employing office of such employee; or

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

(b)(1) An employee of the Federal Election Commission (except one appointed by the President, by and with the advice and consent of the Senate), may not request or receive from, or give to, an employee, a Member of Congress, or an officer of a uniformed service a political contribution.

(2)(A) No employee described under subparagraph (B) (except one appointed by the President, by and with the advice and consent of the Senate), may take an active part in political management or political campaigns.

(B) The provisions of subparagraph (A) shall apply to--

(i) an employee of--

(I) the Federal Election Commission;

(II) the Federal Bureau of Investigation;

(III) the Secret Service;

(IV) the Central Intelligence Agency;

(V) the National Security Council;

(VI) the National Security Agency;

(VII) the Defense Intelligence Agency;

(VIII) the Merit Systems Protection Board;

(IX) the Office of Special Counsel;

(X) the Office of Criminal Investigation of the Internal Revenue Service;

(XI) the Office of Investigative Programs of the United States Customs Service;

(XII) the Office of Law Enforcement of the Bureau of Alcohol, Tobacco, and Firearms; or

(XIII) the National Imagery and Mapping Agency; or

(ii) a person employed in a position described under section 3132(a)(4), 5372, or 5372a of title 5, United States Code.

(3) No employee of the Criminal Division of the Department of Justice (except one appointed by the President, by and with the advice and consent of the Senate), may take an active part in political management or political campaigns.

(4) For purposes of this subsection, the term "active part in political management or in a political campaign" means those acts of political management or political campaigning which were prohibited for employees of the competitive service before July 19, 1940, by determinations of the Civil Service Commission under the rules prescribed by the President.

(e) An employee retains the right to vote as he chooses and to express his opinion on political subjects and candidates.

CREDIT(S)

1996 Main Volume

(Added Pub.L. 103-94, § 2(a), Oct. 6, 1993, 107 Stat. 1002, and amended Pub.L. 103-359, Title V, § 501(k), Oct. 14, 1994, 108 Stat. 3430.)

2000 Pocket Part

(As amended Pub.L. 104-201, Div. A, Title XI, § 1122(a)(1), Sept. 23, 1996, 110 Stat. 2687.)

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1993 Acts. Senate Report No. 103-57 and Statement by President, see 1993 U.S. Code Cong. and Adm. News, p. 1802.

1994 Acts. House Report No. 103-541 and House Conference Report No. 103-753, see 1994 U.S. Code Cong. and Adm. News, p. 2703.

1996 Acts. House Report No. 104-563 and House Conference Report No. 104-724, see 1996 U.S. Code Cong. and Adm. News, p. 2948.

References in Text

The date of enactment of the Hatch Act Reform Amendments of 1993, referred to in subsec. (a)(2)(A), (C), is Oct. 6, 1993, the date of enactment of Pub.L. 103-94.

Amendments

1996 Amendments. Subsec. (b)(2)(B)(i)(XIII). Pub.L. 104-201, § 1122(a)(1), substituted "National Imagery and Mapping Agency" for "Central Imagery Office".

1994 Amendments. Subsec. (b)(2)(B)(i)(XIII). Pub.L. 103-359, § 501(k), added subcl. (XIII).

Effective and Applicability Provisions

1993 Acts. Section effective 120 days after Oct. 6, 1993, and not to affect proceedings with respect to charges filed on or before 120 days after Oct. 6, 1993, and orders to be issued in such proceedings and appeals to be taken therefrom as if Pub.L. 103-94 had not been enacted, see section 12 of Pub.L. 103-94, set out as a note under section 7321 of this title.

Savings Provisions

Amendment or repeal of any provision of law made by Pub.L. 103-94 not to release or extinguish any penalty, forfeiture or liability incurred under such provision, and such provision to be treated as remaining in force for purpose of any proceeding or action for enforcement of such penalty, forfeiture or liability, see section 12(b) of Pub.L. 103-94, set out as a note under section 7321 of this title.

Prior Provisions

A prior section 7323, Pub.L. 89-554, Sept. 6, 1966, 80 Stat. 525, which prohibited employee in Executive agency from requesting, receiving from, or giving to, an employee, a Member of Congress, or an officer of a uniformed service, a thing of value for political purposes, and provided for removal from service of employee for violation, was omitted in the general revision of this subchapter by section 2(a) of Pub.L. 103-94.

CROSS REFERENCES

Applicability of this section to--

Federal employees making political contributions, see 18 USCA § 603.

Federal employees' solicitation of political contributions, see 18 USCA § 602.

Political activities prohibited by personnel management system of General Accounting Office, see 31 USCA § 732.

LIBRARY REFERENCES

Administrative Law

Federal Election Commission (FEC), standards of conduct, see 11 CFR § 7.1 et seq.

Political activity, see West's Federal Administrative Practice § 6404.5.

Political affiliation of federal employee, see West's Federal Administrative Practice § 15805.

American Digest System

Authority and powers of federal officers, agents, and employees in general, see United States Ⓢ40.

Regulation of public officers and employees in general; political activities, see Officers and Public Employees Ⓢ11 et seq., 18, 19, 106 et seq.

Encyclopedias

Authority and powers of federal officers, agents, and employees in general, see C.J.S. United States § 38 et seq.

Regulation of public officers and employees in general; political activities, see C.J.S. Officers and Public Employees § § 89 et seq., 90, 190 et seq., 193 et seq.

26 Am Jur 2d, Elections § 476

NOTES OF DECISIONS

Partisan political office 1

removal. Special Counsel v. Kane, M.S.P.B.1998, 77 M.S.P.R. 530.

1. Partisan political office

5 U.S.C.A. § 7323

Postal Service employee's becoming a candidate for election to partisan political office of town assessor in party primary and in general election, was violation of the Hatch Act of such scope and effect as to warrant

5 USCA § 7323

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