



HATCH ACT MODERNIZATION ACT OF 2012 FACT SHEET

INTRODUCTION

The federal Hatch Act restricts the political activity of individuals principally employed by state, county or municipal executive agencies who have duties in connection with programs financed in whole or in part by federal loans or grants. An employee covered by the Act is prohibited from being a candidate for public office in a partisan election. The penalty for violating the Act is removal of the employee from his or her position with the state or local agency and debarment from employment with a state or local agency within the same state for the following 18 months. There is no statute of limitations or deadline by which the Office of Special Counsel must file charges.

BREAKDOWN OF CHANGES MADE BY THE MODERNIZATION ACT

Section 2 – Amends Section 1502(a)(3).

- What It Does: This amendment clarifies that a state or local employee may not be a candidate for elective office “if the salary of the employee is paid **completely** [emphasis added], directly or indirectly, by loans or grants made by the United States or a Federal agency.” This provision allows state and local law enforcement officers to run for the Office of Sheriff without having to quit their jobs.

Section 3 – Makes provisions relating to state and local employees applicable to the District of Columbia.

- What It Does: Employees of the District of Columbia and any agency of the District of Columbia are now subject to the provisions of the Hatch Act.

Section 4 – Amends Hatch Act penalties for federal employees.

- What It Does: For federal employees only, penalties for Hatch Act violations will include “reduction in grade, debarment from Federal employment for a period not to exceed 5 years, suspension reprimand, or an assessment of a civil penalty not to exceed \$1,000.” Previously, the penalty for any federal employee was either removal from his or her position or suspension without pay for not less than 30 days.

* Effective 30 days after its enactment, i.e., January 28, 2013

PROVISIONS NOT INCLUDED IN THE MODERNIZATION ACT

A provision that would (1) clarify current law to allow sheriffs, in their official capacity, to participate in political activities of other candidates and (2) clarify allowable political activities of a sheriff to include, but not be limited to, endorsing a candidate through print, radio or TV ads, speaking in political events, attending or sponsoring fundraisers.

- Reason Provision is Necessary: While the intent of §1502(a)(1) of the Hatch Act may be to prohibit an individual from abusing his or her official authority to influence or interfere with an election, §1502(a)(1) is overreaching and ambiguous when applied to the Office of Sheriff. The Office of Sheriff is unique in that it is both an **elected and uniformed position**. Consequently, sheriffs have unfairly been subject to claims of potential violations of the federal Hatch Act due to the inherent and unique nature of the elected Office which requires him or her to be on duty 24 hours a day/7 days a week/365 days a year.

A provision that would implement a statute of limitations of 6 months to file a claim against a state or local law enforcement officer or a sheriff for alleged violation of the Hatch Act.

- Reason Provision is Necessary: The penalty for violating the Hatch Act is removal of the employee from his or her position with the state or local agency and debarment from employment with a state or local agency within the same state for the following 18 months. Currently, there is no statute of limitations. In recent years, individuals have used *potential* violations that occurred years past by filing a claim with the Office of Special Counsel as a political attack against an incumbent sheriff during an election cycle. The statute of limitations will ensure that claims must be filed within six months of the alleged violation.