REPORT BY THE

Comptroller General

OF THE UNITED STATES

Hatch Act Reform -- Unresolved Questions

In recent years the Congress has considered several bills to reform the Hatch Act prohibiting Government employees from participating in partisan political activity. Generally, these bills would have reduced the restriction on partisan political activity by individuals on their own time, while increasing prohibitions on the misuse of official authority.

Arguments for or against reform raise several questions that should be resolved during the consideration of any new legislation, including the

--potential impact on the civil service of the recently passed Civil Service Reform Act.

--ability of the Special Counsel to the Merit Systems Protection Board to properly enforce violations of a revised Hatch Act, and

--apparent trend of State and local governments to remove the restrictions on partisan political activity.

FPCD-79-55
JULY 24, 1979

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-138229

The Honorable Abraham A. Ribicoff
Chairman, Committee on Governmental
Affairs
United States Senate

The Honorable James M. Hanley
Chairman, Committee on Post Office and
Civil Service
House of Representatives

This is an information report that reviews the history of the Hatch Act and prior efforts in the Congress to revise it. We have identified several questions that should be resolved when considering any legislation to revise the Hatch Act.

Copies of this report are being sent to the Director, Office of Personnel Management; Chair, Merit Systems Protection Board; Special Counsel to the Merit Systems Protection Board; and other interested parties.

Comptroller General
of the United States

Contents

HATCH ACT REFORM--UNRESOLVED QUESTIONS

The purpose of this report is to review the legislative history of the Hatch Act and discuss several issues we believe the Congress should consider in its deliberation of any proposed legislation. These issues are listed below:

--Any legislation revising the Hatch Act must consider the impact of the recently passed Civil Service Reform Act of 1978. This legislation is currently being implemented, and its effect on the civil service has yet to be determined.

--The ability of the Special Counsel as it is currently structured is not adequate to enforce a revised Hatch Act. At present the Special Counsel has few resources to properly enforce any safeguards established to identify cases of misuse of authority and to protect Federal employees from coercive activity. The eventual regionalization of the Special Counsel should provide better national coverage but the attitude of waiting for complaints must be overcome.

--Any safeguards established to protect Federal employees from coercion by management should also include some form of protection from outside groups. These groups may be even more capable of systematic coercion than management.

--Any revision of the Hatch Act providing safeguards against coercion must consider the difficulty in identifying the more subtle forms of coercion such as the withholding of awards or favors.

--The elimination of restrictions on political activity could very likely increase the potential for conflict of interest situations to develop. Problems of this type are not necessarily limited to the higher grade positions having substantial input into a decision. Any position that has responsibility for large Federal expenditures, even in small increments, may be susceptible to misusing their authority.

--The opinions of Federal employees have not been given recent consideration. The last comprehensive national poll of Federal employees is now 12 years old.

--The effect of the apparent trend of State legislatures to remove restrictions on political activity should be considered in future legislation.

HISTORY OF THE HATCH ACT

Until the late 19th century, Federal employees' political activities were regulated by the executive rather than the legislative branch. Executive orders issued by several Presidents, including Washington, Jefferson, Harrison, Hayes, and Cleveland, had only limited success in restricting the political activity of Federal employees. Only after a disappointed office seeker assassinated President Garfield in 1881 did a reform movement begin to grow in the Congress.

In 1883, the Congress passed legislation that established the Civil Service Commission (CSC). This law authorized the President to make rules to prevent political coercion and protected classified employees from removal for political reasons. Voluntary partisan political activities, however, were not prohibited. Further legislative attempts to limit the extent that Federal employees could participate in voluntary political activities were successfully opposed in the Congress on the grounds that such restrictions unduly infringed upon the constitutional rights of free speech and free association.

The "New Deal" relief programs during the 1930s had expanded the Federal work force considerably. Many needy persons placed on the Federal payrolls were not in classified positions and therefore were not subject to CSC's regulations governing partisan political activities. Only 32 percent of the Federal work force at that time was in the competitive civil service.

Controversey over the political activities of Federal employees again arose in the Congress as reports of widespread corruption in the 1938 election campaign became public. On May 27, 1938, a special Senate committee was appointed to investigate an array of charges that Federal monies were being used to influence Federal and local elections. The committee found that the common feature of abuse was coercion or intimidation of Government employees and relief recipients to change their party affiliation or to support party interests. It recommended that such practices be made subject to criminal penalties.

During the 76th Congress, Senator Carl Hatch (D--N. Mex.) introduced legislation incorporating the committee's recommendations into a single measure. The bill was enacted and codified in chapter 73 of title 5, United States Code. It prohibited Federal employees from using their official authority or influence to interfere with an election, and it barred employees from taking an active part in partisan

political management or political campaigns. The penalty for violation of the Hatch Act varied from a 30-day suspension to termination from Government service. The act expressly recognized that employees retained the right to vote and to privately express their opinions on political subjects. Employees who are paid from appropriations for the office of the President, heads and assistant heads of executive or military departments, and officials who are appointed by the President and approved by the Senate are exempt from the restrictions on political management and political campaigning.

The most significant amendments to the Hatch Act were added in 1940. These amendments (1) extended the political activity prohibitions to District of Columbia employees and to State and local government employees whose principal employment is in connection with a federally funded activity; (2) permitted Federal employees, residing in certain areas where a majority of the voters are Federal employees, to take part in local political matters; and (3) redefined the prohibitions against taking an active part in political campaigns by effectively incorporating in the statute over 3,000 prior administrative determinations of the Civil Service Commission.

THE CONSTITUTIONAL QUESTION

Since its passage in 1939, the Supreme Court has considered several challenges to the restrictions on the political activity of Government employees. In the first major decision in 1947 (United Public Workers of America v. Mitchell), the Court stated that the Congress has the constitutional authority to regulate the political activity of public employees in order to maintain the efficiency and integrity of the civil service. In a related decision that year (Oklahoma v. United States Civil Service Commission) the Court upheld the Hatch Act's extension to State and local government employees. The underlying premise was that better public service would result by requiring those who administer funds for national needs to abstain from active political partisanship.

The Court again upheld the constitutionality of the act in a 1973 decision. In United States Civil Service Commission v. National Association of Letter Carriers, the Court stated that the right to associate and participate in political activities is by no means absolute and that the Congress may regulate these activities. The problem, they concluded, is

"to arrive at a balance between the interests of the employee, as a citizen, in commenting upon matters of public concern and the interest of the Government, as an employer, in promoting the efficiency of the public service it performs through its employees."

While the Court did not address the appropriateness or applicability of the restrictions, it said the Hatch Act was neither vague nor indefinite.

In Broadrick v. Oklahoma, the Court reviewed Oklahoma's "little Hatch Act" against constitutional challenge. The Court stated that the prohibitions against political activity are set out in terms that ordinary persons exercising common sense can understand and comply with. These prohibitions were deemed constitutional. These cases clearly establish that restricting political activity is an acceptable method to insure the independence of Government employees and that responsibility for any changes apparently rests with the Legislatures.

A 1976 decision by the Supreme Court (Elrod et. al., Petitioners v. John Burns et. al.) reaffirmed the Court's belief in a politically neutral civil service. The Court declared that patronage firing of Cook County, Illinois, sheriff deputies, as sanctioned by the State Legislature, violated the first and 14th amendments to the Constitution. In its decision, the Court stated,

"* * * The lack of any justification for patronage dismissals as a means of furthering Government effectiveness and efficiency distinguishes this case from CSC v. Letter Carriers and United Public Workers v. Mitchell. In both of those cases, legislative restraints on political management and campaigning by public employees were upheld despite their encroachment on First Amendment rights because, inter alia, they did serve in a necessary manner to foster and protect efficient and effective Government. Interestingly, the activities that were restrained by the legislation involved in those cases are characteristic of patronage practices. * * *"

The Court also stated that the policies of a new administration could be effectively implemented and fully satisfied by limiting patronage dismissals to policymaking positions.

EFFORTS TO REVISE THE HATCH ACT--A CONTINUING CONTROVERSY

Since enactment of the Hatch Act, legislation to reduce the restrictions on political activity has been introduced in every Congress. Only in recent years, however, has legislation been seriously considered. To assess the effects of the act, in October 1966 the 89th Congress established the Commission on Political Activity of Government Personnel to investigate and study Federal laws which limit the participation of public employees in political activity. The Commission conducted public hearings in various parts of the country and commissioned a major study by the Survey Research Center on Federal and State employees' attitudes (see discussion on p. 7), after which it issued a series of recommendations. The Commission proposed to expand, within limits, the extent of political activity by Federal and State employees and simultaneously called for strengthening the sanctions at all levels against coercion and the misuse of official authority.

Although legislation was introduced in each of the subsequent Congresses, it was not until the 94th Congress that any substantive action was taken. A bill passed in both Houses but was vetoed by President Ford. In his veto message, President Ford stated the removal of Hatch Act restrictions might endanger the

> " * * * entire concept of employee independence and freedom from coercion which has been largely successful in preventing undue political influence in Government programs or personnel management. If this bill were to become law * * * pressures could be brought to bear upon Federal employees in extremely subtle ways beyond the reach of any anticoercion statute so that they would inevitably feel compelled to engage in partisan political activity. * * *"

Another bill, virtually identical to the one vetoed by President Ford, was submitted in the 95th Congress. This bill passed in the House, but it was not voted on in the Senate.

Both the 94th and 95th Congresses conducted extensive hearings in consideration of these bills. The testimony, as presented to the Congress, reveals two very distinct and opposing opinions over revision of the Hatch Act. The controversy appears to be centered around the necessity to restrict the partisan political activity of Federal employees in order to maintain the independence and integrity of the civil service.

Support for Hatch Act reform comes primarily from Government labor unions and such organizations as the American Civil Liberties Union. They argue that the Hatch Act unnecessarily denies first amendment rights to Government employees and that the efficiency and integrity of the civil service can be protected by tough prohibitions against coercion of Federal employees and restrictions on the use of official authority. The current merit system, with its competitive selection and promotion process, will adequately protect the civil service from reverting to the "spoils" system that was the rule prior to 1939.

Opposition to Hatch Act reform comes primarily from newspaper editorials and groups like Common Cause. They argue that allowing a Federal employee to participate in political activity puts him in jeopardy should he not follow the party lines of the current administration. They believe that coercion takes many subtle forms and is impossible to police. Any further liberalization of the law would put the civil service in danger of reverting back to the "spoils" system.

Under the provisions of the bill submitted in the 95th Congress, the restrictions on political participation for Government employees would have been relaxed, while protection against improper influence or coercion was tightened. Permissible and prohibited political activities were spelled out and investigative procedures were established. The bill retained existing limitations on specific positions designated by CSC as "restricted positions." The bill defined restricted positions as such activities as law enforcement, auditing, contracting, licensing, and grants administration. It also excluded all foreign intelligence and national security activities. The bill also established specific criteria for identifying restricted positions.

Two bills (H.R. 2400 and H.R. 2401) revising the Hatch Act have recently been introduced in the current Congress. Both bills are similar to those previously submitted. However, one bill (H.R. 2401) covers all Federal employees, while the other (H.R. 2400) applies only to Postal Service employees. The major differences between the previous bills and the new bills are the lack of investigative procedures, and most importantly, the Postal Service bill does not have provisions for restricted positions. (See p. 12.) In our opinion, to distinguish between Federal employees and Postal Service employees only confuses an already complex and difficult issue. Our comments, therefore, apply equally to both groups.

Officials representing both sides of the controversy claimed, in their testimony, to have the support of Federal employees. As a result, both sides presented the Congress with survey results that supported their particular beliefs. For example, in 1976 the American Postal Workers Union conducted a survey of their membership which overwhelmingly supported revision of the Hatch Act. This survey was conducted at 66 randomly selected locals and apparently was administered by the local union officials during a union meeting. In the same year Decision Making Information conducted a nationwide in-home survey of 1,529 randomly selected adults. It found almost 71 percent favored keeping the Hatch Act. Almost 73 percent of the 323 Government employees in the sample favored retention of the Hatch Act. In our opinion, these conflicting survey results are most likely due to sampling procedures or survey techniques.

We found one survey--performed in 1967 for the Commission on Political Activity of Government Employees by the Survey Research Center of the University of Michigan--that was well done and provided reliable data. This survey was a scientific sample of all Federal employees and reported on a wide variety of their attitudes and beliefs about regulating political activity. The survey found that 91 percent of the Federal employees were aware of Federal regulations or laws prohibiting partisan political activity, and 85 percent of them were aware of the Hatch Act. However, there was considerable confusion over what specific activities were prohibited. For example, only 59 percent believed participating in a partisan political campaign was prohibited.

A major question in the survey was whether the rules restricting political activity should be changed. The responses are shown below:

	Percent
Allow more participation	47
Remain the same	48
Allow less	1
Do not know	3
	a/100

a/Does not total due to rounding.

This survey is obviously getting old, and considering the conflicting results of the surveys presented in the hearings, its replication would provide valuable and reliable information. It would, however, be expensive and require

at least 6 months to complete. The results, although valuable, may not be justified in light of the other issues surrounding the Hatch Act reform.

IMPACT OF OTHER LAWS ON HATCH ACT

While the controversy over the Hatch Act revision continues, it is important to note that certain legislative actions have occurred that may significantly affect the Hatch Act and its administration. The Federal Elections Campaign Act Amendments of 1974 removed the prohibition against State and local government employees taking an active part in political management or campaigns and replaced it with a prohibition against being a candidate for elective office in a partisan election. While State and local government employees may therefore participate in partisan political activities, it still restricts those employees from

- --the use of official authority or influence for the purpose of interfering with or affecting the results of an election or a nomination for office;
- --directly or indirectly coercing, or attempting to coerce, command, or advise a State and local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes; or
- --being a candidate for public elective office in a partisan primary, general, or special election.

On October 13, 1978, the Congress passed the Civil Service Reform Act. Among other things, this act established an independent Special Counsel to the Merit Systems Protection Board, which has the authority (1) to investigate charges of prohibited personnel practices, (2) to petition the Board to stop adverse personnel actions, and (3) to bring disciplinary action before the Board for violations of law. In addition to the substantial responsibilities mandated in this law, the Special Counsel has also been delegated the authority for enforcing the Hatch Act.

The Office of General Counsel (OGC) in the old Civil Service Commission had the authority to investigate and prosecute Hatch Act violations and adverse personnel actions. This group of about 19 people has been assigned to the Special Counsel to perform the above mentioned tasks. A discussion of the results of their efforts regarding Hatch Act is included in the next section.

RESULTS OF HATCH ACT ADMINISTRATION

Prior to implementation of the Civil Service Reform Act, OGC had the authority for processing complaints of prohibited political activity. Complaints were accepted from any source, i.e., a public or private agency, a private citizen, or another employee. Upon receipt of a complaint, an attorney was assigned to perform the preliminary investigation and to determine the applicability of the alleged violation to the Hatch Act. If an investigation was warranted, it was conducted by full-time investigators in the applicable regional offices. If the investigation determined a violation had occurred, the assigned attorney presented the case in a hearing before an Administrative Law Judge. A recommendation for disposition was presented to the full Commission, which made the final decision based on the record of the hearing. OGC had the authority to close a case at any time during the investigation based on its judgment that a violation had not occurred or could not be proven.

According to OGC officials, the number of employees subject to the Hatch Act is about 5.1 million--2.8 million Federal employees and 2.3 million State/local employees. The number of complaints received and their disposition is shown on the following page.

	Federal Employees				
	1974	1975	1976	1977	1978
Complaints received					
Candidacy for office	20	6	15	13	10
Campaigning	18	7	18	7	18
Campaign management	17	4	11	3	2
Misuse of official authority	3	0	0	0	1
Other	0	4	4	0	2
Total	58	21	48	23	33
Complaints investigated	41	7	30	12	16
Charges issued	6	1	6	1	1
Disciplinary action taken	1	0	6	1	1

	State/Local Employees				
	1974	1975	1976	1977	1978
Complaints received					
Candidacy for office	21	5	12	14	34
Campaigning	20	5	3	1	0
Campaign management	16	3	0	0	0
Misuse of official authority	7	3	5	3	1
Other	0	4	0	0	0
Total	64	20	20	18	35
Complaints investigated	38	5	13	4	11
Charges issued	4	2	2	1	0
Disciplinary action taken	3	1	0	1	0

Agency officials attribute the small number of complaints to several factors. Most importantly, the political restrictions on Federal employees are so well known that it tends to be self-enforcing. Although employees may not be aware of the Hatch Act itself, a substantial majority are aware of the restrictions on political activity. It is their belief that this acts as an informal method of warning employees about potential violations and that this peer pressure tends to reduce the number of violations.

A second factor contributing to the low number of complaints is the natural reluctance to report a fellow employee or a superior. Fear of reprisal is undoubtedly a factor in this situation. Agency officials stated they can protect a Federal employee by maintaining anonymity or stopping any adverse personnel action. They have no influence over more subtle forms of reprisal such as a less desirable working environment or location. The Federal law, however, does not provide similar protection for State and local employees.

Agency officials believe that some cases probably go unreported each year. They have not, however, attempted to implement any type of surveillance procedures. They believe their role in this program is to act only upon receipt of a complaint. To do anything else, the officials said, would require substantially more funds and manpower than could reasonably be expected.

The reorganization as a result of the Civil Service Reform Act has not resulted in any changes to the methods of enforcing the Hatch Act. The Special Counsel has requested a supplementary budget to support 62 employees in fiscal year 1979 and 140 employees in fiscal year 1980. Its primary purpose will be to fulfill the obligations of the new law. It is expected the operations of the Special Counsel will be decentralized to at least five regional offices providing local jurisdictions to enforce the merit systems' laws and regulations. Until this regionalization occurs, the four attorneys previously assigned to Hatch Act investigations will remain unchanged. Although the agency officials agreed that regionalization would provide the basis for establishing some form of surveillance procedures, they have not considered doing so.

PROTECTION OF FEDERAL EMPLOYEES FROM ADVERSE ACTIONS

Protection of Federal employees from being coerced--directly or indirectly--into participating in partisan political activity is one of the major issues to consider in any legislation to revise the Hatch Act. Coercion can occur in many forms and from many sources. Any proposed legislation should therefore consider adequate safeguards against such actions.

The legislation submitted in the 96th Congress would prohibit an employee from either directly or indirectly using his official authority or influence for the purpose of intimidating, threatening, coercing, commanding, or

influencing any individual for the purpose of influencing the results of a partisan election. Neither the present law, nor the proposed amendments include any safeguards against direct or indirect coercion by an outside organization or group. The potential for an outside group to coerce an individual employee is possibly as great as the potential for one employee to coerce another employee. These groups could utilize internal publications or other pressures outside the Government facility to influence employees to participate in partisan political activities. The long-term effect of this could be as detrimental to the civil service as coercion by another employee or a supervisor.

Subtle acts of coercion such as less desirable assignments or exclusion from group activities are extremely difficult to detect and may be impossible to police. Coercion of this type could occur at every level of Government; however, it could be most destructive in groups such as the Senior Executive Service and the mid-level management group. The rewards in these programs are substantial and are given at the discretion of the agency heads. These positions, at the highest level of the civil service, could be subjected to political pressure. The potential of withholding even a portion of the rewards authorized by law could be sufficient to influence the actions of an individual. The impact on the civil service of coercive activity of this type could be substantial.

MISUSE OF OFFICIAL AUTHORITY--POTENTIAL FOR CONFLICT OF INTEREST

Another major problem that must be considered before allowing Federal employees to fully participate in partisan political activity is the potential for conflict of interest situations to occur. For example, a Federal employee acting in his official capacity could perform in a manner that would enhance a favored candidate's political position. If this action were at the expense of the Federal Government, or of society, it would, at the very least, be contrary to the spirit of the conflict-of-interest laws.

The proposed legislation submitted in the 95th Congress addressed this issue by establishing criteria for restricted positions. These positions would have been identified by CSC as sensitive to the integrity of the civil service and were not included in the bill. The criteria in the bill establishing these positions are listed below:

--The employee must be engaged in foreign intelligence, national security, law enforcement, auditing, contracting, licensing, or grants administration.

--The employee must have the authority to make binding policy decisions.

--The integrity of the Government or the public confidence must be maintained.

Responding to a congressional request, CSC identified about 280,000 positions which would meet the above criteria. These positions were obtained by asking each of the cabinet level agencies to identify the positions which should remain subject to the Hatch Act. The criteria in the bill were provided as guidance, and any questions were resolved between officials at CSC and the individual agency. As a result, the criteria were further expanded to include employees who have "substantial input" into an actual decision affecting the public or the disbursement of funds, and a $25,000 minimum was placed on any transaction.

These criteria effectively included any contract or grant officers who do not have approval authority but are responsible for reviewing the proposals and monitoring the progress of various projects. On the other hand, it effectively excluded such positions as purchasing agents who routinely purchase low value items. Although the individual transactions may be small, the annual expenditures could result in large sums of money.

The bills submitted in the 96th Congress affecting all Federal employees provides for restricted positions. The restricted positions in the bill appear to include employees who have policymaking responsibilities or are actively engaged in foreign intelligence, law enforcement, and contract and grant administration. Transactions that are included in this legislation are limited to a "substantial monetary value." The Postal Service bill has no provisions for restricted positions. The justification for restricting certain groups of Federal employees--law enforcement, contracting officers, and purchasing agents--has equal validity for Postal Service employees. We believe restrictions on such employees are essential to any reform legislation.

RECENT ACTIVITIES OF STATE LEGISLATURES

Most States restrict the political activities of their public employees with either statutory or administrative provisions. There are 41 States with statutory restrictions,

7 States with administrative regulations, and 2 States with no generally applicable statutory or administrative limitations on political activity. We reviewed these laws to determine if regional patterns exist and what changes have occurred since passage of the Federal Election Campaign Reform Act of 1974.

Our analysis did not reveal a clear pattern. However, it does appear that the Southern States tend to have very restrictive laws, while the Western and Midwestern States tend to be less restrictive. Interestingly, 38 States prohibit the use of official authority or coercion to influence political decisions.

A major problem that is appearing in several States is the apparent ambiguity of the State statutes. As a result, several statutes have been challenged in the courts. The Arizona statute providing that no public officer or employee shall ask any individual over which he has direct supervision to contribute to an organization or person for political purposes was declared unconstitutional by the State Supreme Court. The statute was found to be vague and indefinite, thereby infringing on political rights and freedom of speech. As a result of this action, the State legislature repealed the law.

Another problem we noted is the conflicting efforts by State and local governments to regulate political activity. The result has been confusion among public employees about what is considered restricted activity. For example, the Florida State Legislature recently passed a law permitting municipal employees to participate in political campaigns during off-duty hours. A Pensacola employee challenged the apparent conflict between the restrictions imposed by the municipal code and the new State law. The Court held that the State law acted to expand the range of permissible activities, but not to the point of repealing local restrictions. In 1976, Minnesota dealt with the problem of conflicting regulations by revising the State statutes to provide that no political subdivision could impose or enforce any additional limitations on the political activities of its employees.

Subsequent to passage of the Federal Election Campaign Act Amendments of 1974, 15 States revised their laws governing the political activities of public employees. Six of these States liberalized their laws by specifying greater freedom for public employees or prohibiting further statutory restriction of their political activities. Most of these changes occurred in Midwestern States. Revisions enacted in

the other nine States may be classified as minor word changes, addition of phrases prohibiting discrimination in employment, and changes in penalties for violation of the law.

MATTERS FOR CONSIDERATION BY THE CONGRESS

Although the constitutionality of the Hatch Act has clearly been established, revision of the act continues to be debated. We believe the Congress should consider the following questions during its deliberation on any proposed legislation.

--Any legislation revising the Hatch Act must consider the impact of the recently passed Civil Service Reform Act of 1978. This legislation is currently being implemented, and its effect on the civil service has yet to be determined.

--The ability of the Special Counsel as it is currently structured is not adequate to enforce a revised Hatch Act. At present the Special Counsel has few resources to properly enforce any safeguards established to identify cases of misuse of authority and to protect Federal employees from coercive activity. The eventual regionalization of the Special Counsel should provide better national coverage but the attitude of waiting for complaints must be overcome.

--Any safeguards established to protect Federal employees from coercion by management should also include some form of protection from outside groups. These groups may be even more capable of systematic coercion than management.

--Any revision of the Hatch Act providing safeguards against coercion must consider the difficulty in identifying the more subtle forms of coercion such as the withholding of awards or favors.

--The elimination of restrictions on political activity could very likely increase the potential for conflict-of-interest situations to develop. Problems of this type are not necessarily limited to the higher grade positions having substantial input into a decision. Any position that has responsibility for large Federal expenditures, even in small increments, may be susceptible to misusing their authority.

--The opinions of Federal employees have not been given recent consideration. The last comprehensive national poll of Federal employees is now 12 years old.

--The effect of the apparent trend of State legislatures to remove restrictions on political activity should be considered in future legislation.

SCOPE OF REVIEW

We performed this study at the Special Counsel to the Merit Systems Protection Board and the Office of Personnel Management. We examined their procedures for investigating complaints of Hatch Act violations and the results of their investigations. We discussed the many issues of Hatch Act reform with the Special Counsel and various public and private agencies that testified or presented statements to the Congress. We also reviewed the Federal and State laws and regulations restricting the political activity of Government employees and the several Federal and State court decisions affecting those laws and regulations. We discussed this report with the Special Counsel to the Merit Systems Protection Board and the Office of Personnel Management. Their comments are incorporated in the report.

BIBLIOGRAPHY

HEARINGS

U.S. Congress, House. Committee on Post Office and Civil Service, Subcommittee on Civil Service. Federal Employees' Political Activities Act of 1977. Hearings, 95th Congress, 1st session, on H.R. 10. Washington, U.S. Govt. Print. Off., 1977, p. 225.
Hearings held Feb. 23 and 24, 1977.

U.S. Congress, House. Committee on Post Office and Civil Service, Subcommittee on Employee Political Rights and Intergovernmental Programs. Federal Employees' Political Activities Act of 1975. Hearings, 94th Congress, 1st session, on H.R. 3000. Washington, U.S. Govt. Print. Off., 1975, p. 711.
Hearings held Mar. 25; Apr. 8, 9, 10 (Part I); Apr. 14, 15, 19; May 2, 3; and June 13, 1975 (Part II).

U.S. Congress, Senate. Committee on Governmental Affairs. Legislation to amend the Hatch Act. Hearings, 95th Congress, 1st session, on S. 80, S. 980, and H.R. 10. Washington, U.S. Govt. Print. Off., 1977, p. 558.
Hearings held July 18, 19, and Sept. 22 and 26, 1977.

U.S. Congress, Senate. Committee on Post Office and Civil Service. Federal Employees' Political Activities. Hearings, 94th Congress, 1st session, on S. 372 and H.R. 8617. Washington, U.S. Govt. Print. Off., 1975, p. 416.
Hearings held Nov. 5 and 6, 1975.

CONGRESSIONAL REPORTS

U.S. Congress, House. Committee on Post Office and Civil Service. Federal Employees' Political Activities Act of 1977; report together with additional and minority views to accompany H.R. 10. Washington, U.S. Govt. Print. Off., 1977, p. 86. (95th Congress, 1st session. H. Rept. 95-292.)

U.S. Congress, House. Veto of Hatch Act Repeal. Message from the President of the United States vetoing H.R. 8617. Washington, U.S. Govt. Print. Off., 1976, p. 11. (94th Congress, 2nd session. H. Doc. 94-449.)

U.S. Congress, House. Conference report. Federal Employees' Political Activities Act; conference report to accompany H.R. 8617. Washington, U.S. Govt. Print. Off., 1976, p. 10. (94th Congress, 2d session. H. Rept. 94-943.)

U.S. Congress, Senate. Committee on Post Office and Civil Service. Federal Employees' Political Activities Act of 1975; report together with minority views to accompany H.R. 8617. Washington, U.S. Govt. Print. Off., 1975, p. 49. (94th Congress, 1st session. S. Rept. 94-512.)

U.S. Congress, House. Committee on Post Office and Civil Service Federal Employees' Political Activities Act of 1975; report together with minority and separate views to accompany H.R. 8617. Washington, U.S. Govt. Print. Off., 1975, p. 70. (94th Congress, 1st session. H. Rept. 94-444.)

OTHER REFERENCES

Bolton, John R., The Hatch Act: A civil libertarian defense. Washington, American Enterprise Institute for Public Policy Research, 1976.

Controversy over permitting greater political activity by Federal employees: Pro and con. Congressional digest, vol. 56, December 1977: 289-314 (entire issue).

Eberhard, Steven J., The Need for the Hatch Act. Harvard Journal of Law and Public Policy, vol. 1, Summer 1978, pp. 153-198.

Hatch Act Revision. American Enterprise Institute Legislative Analyses, Legislative Analysis No. 20., 95th Congress, Feb. 2, 1979, Washington, D.C., p. 21.

U.S. Commission on Political Activity of Government Personnel. Vols. 1, 2, and 3, Washington, U.S. Govt. Print. Off., 1968.

U.S. Library of Congress. Congressional Research Service. Government Division. Hatch Act Proposed Amendments. Issue Brief IB 7507, Washington, Apr. 24, 1978, p. 8.

U.S. Library of Congress. Congressional Research Service. American Law Division. State Laws and Regulations

Restricting the Political Activities of State Employees: The So-Called Little Hatch Acts, 75-134A, Washington, May 29, 1975, p. 161.

Vaughn, Robert G., Restrictions on the political activities of public employees: The Hatch Act and beyond. George Washington Law Review, vol. 44, May 1976: 516-553.

(964137)

Single copies of GAO reports are available free of charge. Requests (except by Members of Congress) for additional quantities should be accompanied by payment of $1.00 per copy.

Requests for single copies (without charge) should be sent to:

U.S. General Accounting Office
Distribution Section, Room 1518
441 G Street, NW.
Washington, DC 20548

Requests for multiple copies should be sent with checks or money orders to:

U.S. General Accounting Office
Distribution Section
P.O. Box 1020
Washington, DC 20013

Checks or money orders should be made payable to the U.S. General Accounting Office. NOTE: Stamps or Superintendent of Documents coupons will not be accepted.

PLEASE DO NOT SEND CASH

To expedite filling your order, use the report number and date in the lower right corner of the front cover.

GAO reports are now available on microfiche. If such copies will meet your needs, be sure to specify that you want microfiche copies.

AN EQUAL OPPORTUNITY EMPLOYER

UNITED STATES
GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, $300

POSTAGE AND FEES PAID
U. S. GENERAL ACCOUNTING OFFICE

THIRD CLASS