

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-230 effective 30 days after Dec. 28, 2012, see section 5(a) of Pub. L. 112-230, set out as a note under section 1501 of this title.

§ 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)));¹

(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)))¹ 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)));¹ 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 or the Election Assistance 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;

(XIII) the National Geospatial-Intelligence Agency; or

(XIV) the Office of the Director of National Intelligence; or

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

(3) No employee of the Criminal Division or National Security 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.

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

(Added Pub. L. 103-94, § 2(a), Oct. 6, 1993, 107 Stat. 1002; amended Pub. L. 103-359, title V, § 501(k), Oct. 14, 1994, 108 Stat. 3430; Pub. L. 104-201, div. A, title XI, § 1122(a)(1), Sept. 23, 1996, 110 Stat. 2687; Pub. L. 106-554, § 1(a)(3) [title VI, § 645(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A-170; Pub. L. 107-252, title VIII, § 811(a), Oct. 29, 2002, 116 Stat. 1727; Pub. L. 108-458, title I, § 1079(a), Dec. 17, 2004, 118 Stat. 3695; Pub. L. 109-177, title V, § 506(b)(2), Mar. 9, 2006, 120 Stat. 249; Pub. L. 110-417, [div. A], title IX, § 931(a)(1), Oct. 14, 2008, 122 Stat. 4575.)

REFERENCES IN TEXT

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

The Federal Election Campaign Act of 1971, referred to in subsec. (a)(2)(A), (C), is Pub. L. 92-225, Feb. 7, 1972, 86 Stat. 3, which was formerly classified principally to chapter 14 (§ 431 et seq.) of Title 2, The Congress, prior to editorial reclassification and renumbering in Title 52, Voting and Elections, and is now classified principally to chapter 301 (§ 30101 et seq.) of Title 52. Section 315 of this Act is now classified to section 30116 of Title 52. For complete classification of this Act to the Code, see Tables.

PRIOR PROVISIONS

A prior section 7323, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 525, prohibited employee in Executive agency

¹ See References in Text note below.

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, prior to the general revision of this subchapter by Pub. L. 103-94.

AMENDMENTS

2008—Subsec. (b)(2)(B)(i)(XIII). Pub. L. 110-417 substituted “National Geospatial-Intelligence Agency” for “National Imagery and Mapping Agency”.

2006—Subsec. (b)(3). Pub. L. 109-177 inserted “or National Security Division” after “Criminal Division”.

2004—Subsec. (b)(2)(B)(i)(XIV). Pub. L. 108-458 added subcl. (XIV).

2002—Subsec. (b)(2)(B)(i)(I). Pub. L. 107-252 inserted “or the Election Assistance Commission” after “Commission”.

2000—Subsec. (b)(2)(B)(ii). Pub. L. 106-554 substituted “5372a, or 5372b” for “or 5372a”.

1996—Subsec. (b)(2)(B)(i)(XIII). Pub. L. 104-201 substituted “National Imagery and Mapping Agency” for “Central Imagery Office”.

1994—Subsec. (b)(2)(B)(i)(XIII). Pub. L. 103-359 added subcl. (XIII).

EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108-458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of Title 50, War and National Defense.

Amendment by Pub. L. 108-458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108-458, set out as an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of Title 50, War and National Defense.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-252 effective upon appointment of all members of the Election Assistance Commission under section 20923 of Title 52, Voting and Elections, see section 21134(a) of Title 52.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104-201, set out as a note under section 193 of Title 10, Armed Forces.

TRANSFER OF FUNCTIONS

For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

For transfer of authorities, functions, personnel, and assets of the Bureau of Alcohol, Tobacco and Firearms, including the related functions of the Secretary of the Treasury, to the Department of Justice, see section

531(c) of Title 6, Domestic Security and section 599A(c)(1) of Title 28, Judiciary and Judicial Procedure.

§ 7324. Political activities on duty; prohibition

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

(1) while the employee is on duty;

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

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

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

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

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

(A) the duties and responsibilities of whose position continue outside normal duty hours and while away from the normal duty post; and

(B) who is—

(i) an employee paid from an appropriation for the Executive Office of the President; or

(ii) an employee appointed by the President, by and with the advice and consent of the Senate, whose position is located within the United States, who determines policies to be pursued by the United States in relations with foreign powers or in the nationwide administration of Federal laws.

(Added Pub. L. 103-94, § 2(a), Oct. 6, 1993, 107 Stat. 1003.)

PRIOR PROVISIONS

A prior section 7324, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 525; Pub. L. 93-268, § 4(a), Apr. 17, 1974, 88 Stat. 87, prohibited Executive agency employees and employees of the District of Columbia from influencing elections or taking part in political campaigns, prior to the general revision of this subchapter by Pub. L. 103-94.

§ 7325. Political activity permitted; employees residing in certain municipalities

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

(1) the municipality or political subdivision is—

(A) the District of Columbia;

(B) in Maryland or Virginia and in the immediate vicinity of the District of Columbia; or

(C) a municipality in which the majority of voters are employed by the Government of the United States; and