

Calendar No. 508112TH CONGRESS
2^D SESSION**S. 2170****[Report No. 112–211]**

To amend the provisions of title 5, United States Code, which are commonly referred to as the “Hatch Act” to eliminate the provision preventing certain State and local employees from seeking elective office, clarify the application of certain provisions to the District of Columbia, and modify the penalties which may be imposed for certain violations under subchapter III of chapter 73 of that title.

IN THE SENATE OF THE UNITED STATES

MARCH 7, 2012

Mr. AKAKA (for himself, Mr. LIEBERMAN, Mr. LEVIN, and Mr. LEE) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

SEPTEMBER 13, 2012

Reported by Mr. LIEBERMAN, with an amendment and an amendment to the title

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To amend the provisions of title 5, United States Code, which are commonly referred to as the “Hatch Act” to eliminate the provision preventing certain State and local employees from seeking elective office, clarify the application of certain provisions to the District of Columbia, and modify the penalties which may be imposed

for certain violations under subchapter III of chapter 73 of that title.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Hatch Act Moderniza-
 5 tion Act of 2012”.

6 **SEC. 2. PERMITTING STATE AND LOCAL EMPLOYEES TO BE**
 7 **CANDIDATES FOR ELECTIVE OFFICE.**

8 (a) IN GENERAL.—Section 1502(a) of title 5, United
 9 States Code, is amended—

10 (1) in paragraph (1), by adding “or” after the
 11 semicolon;

12 (2) in paragraph (2), by striking “purposes; or”
 13 and inserting “purposes.”; and

14 (3) by striking paragraph (3).

15 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

16 (1) REFERENCE TO STATE AND LOCAL OFFI-
 17 CIALS.—Section 1502 of title 5, United States Code,
 18 is amended by striking subsection (c).

19 (2) NONPARTISAN CANDIDACIES.—

20 (A) IN GENERAL.—Section 1503 of title 5,
 21 United States Code, is repealed.

22 (B) TABLE OF SECTIONS.—The table of
 23 sections for chapter 15 of title 5, United States

1 Code, is amended by striking the item relating
 2 to section 1503.

3 **SEC. 3. APPLICABILITY OF PROVISIONS RELATING TO**
 4 **STATE AND LOCAL EMPLOYEES.**

5 (a) STATE OR LOCAL AGENCY.—Section 1501(2) of
 6 title 5, United States Code, is amended by inserting “,
 7 or the District of Columbia, or an agency or department
 8 thereof” before the semicolon.

9 (b) STATE OR LOCAL OFFICER OR EMPLOYEE.—Sec-
 10 tion 1501(4) of title 5, United States Code, is amended
 11 by striking subparagraph (B) and inserting the following:

12 “(B) an individual employed by an edu-
 13 cational or research institution, establishment,
 14 agency, or system which is supported in whole
 15 or in part by—

16 “(i) a State or political subdivision
 17 thereof;

18 “(ii) the District of Columbia; or

19 “(iii) a recognized religious, philan-
 20 thropic, or cultural organization.”.

21 (c) MERIT SYSTEMS PROTECTION BOARD ORDERS.—
 22 Section 1506(a)(2) of title 5, United States Code, is
 23 amended by inserting “(or in the case of the District of
 24 Columbia, in the District of Columbia)” after “the same
 25 State”.

1 (d) PROVISIONS RELATING TO FEDERAL EMPLOYEES
 2 MADE INAPPLICABLE.—Section 7322(1) of title 5, United
 3 States Code, is amended—

4 (1) in subparagraph (A), by adding “or” at the
 5 end;

6 (2) in subparagraph (B), by striking “or” at
 7 the end;

8 (3) by striking subparagraph (C); and

9 (4) by striking “services;” and inserting “serv-
 10 ices or an individual employed or holding office in
 11 the government of the District of Columbia;”.

12 **SEC. 4. HATCH ACT PENALTIES FOR FEDERAL EMPLOYEES.**

13 Chapter 73 of title 5, United States Code, is amended
 14 by striking section 7326 and inserting the following:

15 **“§ 7326. Penalties**

16 “An employee or individual who violates section 7323
 17 or 7324 shall be subject to removal, reduction in grade,
 18 debarment from Federal employment for a period not to
 19 exceed 5 years, suspension, reprimand, or an assessment
 20 of a civil penalty not to exceed \$1,000.”.

21 **SEC. 5. EFFECTIVE DATE.**

22 (a) IN GENERAL.—This Act and the amendments
 23 made by this Act shall take effect 30 days after the date
 24 of enactment of this Act.

25 (b) APPLICABILITY RULE.—

1 (1) ~~IN GENERAL.~~—Except as provided in para-
 2 graph (2), the amendment made by section 4 shall
 3 apply with respect to any violation occurring before,
 4 on, or after the effective date of this Act.

5 (2) ~~EXCEPTION.~~—The amendment made by
 6 section 4 shall not apply with respect to an alleged
 7 violation if, before the effective date of this Act—

8 (A) the Special Counsel has presented a
 9 complaint for disciplinary action, under section
 10 1215 of title 5, United States Code, with re-
 11 spect to the alleged violation; or

12 (B) the employee alleged to have com-
 13 mitted the violation has entered into a signed
 14 settlement agreement with the Special Counsel
 15 with respect to the alleged violation.

16 **SECTION 1. SHORT TITLE.**

17 *This Act may be cited as the “Hatch Act Moderniza-*
 18 *tion Act of 2012”.*

19 **SEC. 2. PERMITTING STATE AND LOCAL EMPLOYEES TO BE**
 20 **CANDIDATES FOR ELECTIVE OFFICE.**

21 *Section 1502(a)(3) of title 5, United States Code, is*
 22 *amended to read as follows:*

23 “(3) *if the salary of the employee is paid com-*
 24 *pletely, directly or indirectly, by loans or grants*

1 *made by the United States or a Federal agency, be a*
 2 *candidate for elective office.”.*

3 **SEC. 3. APPLICABILITY OF PROVISIONS RELATING TO**
 4 **STATE AND LOCAL EMPLOYEES.**

5 (a) *STATE OR LOCAL AGENCY.*—Section 1501(2) of
 6 *title 5, United States Code, is amended by inserting “, or*
 7 *the executive branch of the District of Columbia, or an agen-*
 8 *cy or department thereof” before the semicolon.*

9 (b) *STATE OR LOCAL OFFICER OR EMPLOYEE.*—Sec-
 10 *tion 1501(4) of title 5, United States Code, is amended by*
 11 *striking subparagraph (B) and inserting the following:*

12 *“(B) an individual employed by an edu-*
 13 *cational or research institution, establishment,*
 14 *agency, or system which is supported in whole or*
 15 *in part by—*

16 *“(i) a State or political subdivision*
 17 *thereof;*

18 *“(ii) the District of Columbia; or*

19 *“(iii) a recognized religious, philan-*
 20 *thropic, or cultural organization.”.*

21 (c) *EXCEPTION OF CERTAIN OFFICERS.*—Section
 22 *1502(c)(3) of title 5, United States Code, is amended—*

23 (1) *by striking “‘or municipality” and inserting*
 24 *“, municipality, or the District of Columbia’”; and*

1 (2) by striking ““or municipal” and inserting “,
2 municipal, or the District of Columbia’”.

3 (d) *MERIT SYSTEMS PROTECTION BOARD ORDERS*.—
4 Section 1506(a)(2) of title 5, United States Code, is amend-
5 ed by inserting “(or in the case of the District of Columbia,
6 in the District of Columbia)” after “the same State”.

7 (e) *PROVISIONS RELATING TO FEDERAL EMPLOYEES*
8 *MADE INAPPLICABLE*.—Section 7322(1) of title 5, United
9 States Code, is amended—

10 (1) in subparagraph (A), by adding “or” at the
11 end;

12 (2) in subparagraph (B), by striking “or” at the
13 end;

14 (3) by striking subparagraph (C); and

15 (4) by striking “services;” and inserting “services
16 or an individual employed or holding office in the
17 government of the District of Columbia;”.

18 (f) *EMPLOYEES RESIDING IN CERTAIN MUNICIPALI-*
19 *TIES*.—Section 7325(1) of title 5, United States Code, is
20 amended to read as follows:

21 “(1) the municipality or political subdivision
22 is—

23 “(A) the District of Columbia;

1 “(B) in Maryland or Virginia and in the
 2 immediate vicinity of the District of Columbia;
 3 or

4 “(C) a municipality in which the majority
 5 of voters are employed by the Government of the
 6 United States; and”.

7 **SEC. 4. HATCH ACT PENALTIES FOR FEDERAL EMPLOYEES.**

8 Chapter 73 of title 5, United States Code, is amended
 9 by striking section 7326 and inserting the following:

10 **“§ 7326. Penalties**

11 “An employee or individual who violates section 7323
 12 or 7324 shall be subject to removal, reduction in grade, de-
 13 barment from Federal employment for a period not to ex-
 14 ceed 5 years, suspension, reprimand, or an assessment of
 15 a civil penalty not to exceed \$1,000.”.

16 **SEC. 5. EFFECTIVE DATE.**

17 (a) *IN GENERAL.*—This Act and the amendments
 18 made by this Act shall take effect 30 days after the date
 19 of enactment of this Act.

20 (b) *APPLICABILITY RULE.*—

21 (1) *IN GENERAL.*—Except as provided in para-
 22 graph (2), the amendment made by section 4 shall
 23 apply with respect to any violation occurring before,
 24 on, or after the effective date of this Act.

1 (2) *EXCEPTION.*—*The amendment made by sec-*
 2 *tion 4 shall not apply with respect to an alleged vio-*
 3 *lation if, before the effective date of this Act—*

4 (A) *the Special Counsel has presented a*
 5 *complaint for disciplinary action, under section*
 6 *1215 of title 5, United States Code, with respect*
 7 *to the alleged violation; or*

8 (B) *the employee alleged to have committed*
 9 *the violation has entered into a signed settlement*
 10 *agreement with the Special Counsel with respect*
 11 *to the alleged violation.*

Amend the title so as to read: “A bill to amend the provisions of title 5, United States Code, which are commonly referred to as the ‘Hatch Act’, to scale back the provision forbidding certain State and local employees from seeking elective office, clarify the application of certain provisions to the District of Columbia, and modify the penalties which may be imposed for certain violations under subchapter III of chapter 73 of that title.”.

Calendar No. 508

112TH CONGRESS
2D Session

S. 2170

[Report No. 112-211]

A BILL

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SEPTEMBER 13, 2012

Reported with an amendment and an amendment to the
title