

HATCH ACT MODERNIZATION ACT OF 2012

SECTION BY SECTION

Section 1. Short Title

The short title of this bill is the “Hatch Act Modernization Act of 2012.”

Section 2. Permitting State and Local Employees to be Candidates for Elective Office

Section 2(a) would eliminate the Hatch Act’s prohibition on state or local government employees being candidates for partisan elective office. The bill would not preempt state laws that prohibit state employees from running for office.

Section 2(b) would make technical and conforming amendments.

Section 3. Applicability of Provisions Relating to State and Local Employees

Section 3 would amend the Hatch Act to treat District of Columbia employees similarly to state and local employees.

Section 3(a) would add the District of Columbia to the Hatch Act’s definition of a state or local agency for purposes of provisions of the Hatch Act related to state and local employees.

Section 3(b) would expand the Hatch Act’s education exemption, which exempts individuals who are principally employed by educational or research institutions, so District of Columbia employees would be treated similarly to their counterparts in state and local governments. The Hatch Act currently does not apply to individuals who are principally employed by educational or research institutions, establishments, agencies, or systems “supported in whole or in part by a State or political subdivision thereof.”

Section 3(c) would clarify that the Merit Systems Protection Board (MSPB) must order that federal funds be withheld from the District of Columbia, just as is required for state and local agencies, if the District fails to remove an employee within 30 days after the MSPB provides notice that removal is warranted or if an employee who has been removed is appointed within 18 months to another agency.

Under Section 3(d), the Hatch Act provisions that apply to federal employees would no longer apply to District of Columbia government employees.

Section 4. Hatch Act Penalties for Federal Employees

Section 4 would expand the range of penalties for violating the Hatch Act. The current penalty for violating the Hatch Act is removal, unless the MSPB votes unanimously to impose a lesser penalty. Under this section, federal employees who violate the Hatch Act would be subject to removal, reduction in grade, debarment from federal employment for a period not to exceed five years, suspension, reprimand, or an assessment of civil penalties not to exceed \$1,000.

Section 5. Effective Date

Section 5(a) provides that the Act will take effect 30 days after the date of enactment.

Section 5(b) provides that the new penalty provisions for federal employees shall apply to any violation occurring before, on, or after the effective date of the Act unless, before the effective date the Office of Special Counsel has presented a complaint for disciplinary action for the alleged violation or the employee alleged to have violated the Hatch Act has entered into a signed settlement agreement with the Special Counsel with respect to the alleged violation.