

103^D CONGRESS
1ST SESSION

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To amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. CLAY (for himself and Mr. MYERS of Indiana) introduced the following bill; which was referred to the Committee on Post Office and Civil Service

A BILL

To amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes.

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 “Federal Employees Po-
5 litical Activities Act of 1993”.

1 **SEC. 2. POLITICAL ACTIVITIES.**

2 (a) IN GENERAL.—Subchapter III of chapter 73 of
3 title 5, United States Code, is amended to read as follows:

4 “SUBCHAPTER III—POLITICAL ACTIVITIES

5 “§ 7321. **Political participation**

6 “It is the policy of the Congress that employees
7 should be encouraged to exercise fully, freely, and without
8 fear of penalty or reprisal, and to the extent not expressly
9 prohibited by law, their right to participate or to refrain
10 from participating in the political processes of our Nation.

11 “§ 7322. **Definitions**

12 “For the purpose of this subchapter—

13 “(1) the term ‘employee’ means any individ-
14 ual—

15 “(A) employed or holding office in an Ex-
16 ecutive agency, other than the General Account-
17 ing Office; or

18 “(B) employed in a position within the
19 competitive service which is not in an Executive
20 agency;

21 but does not include the President or the Vice Presi-
22 dent, or a member of the uniformed services;

23 “(2) the term ‘candidate’ means any individual
24 who seeks nomination for election, or election, to any
25 elective office, whether or not the individual is elect-
26 ed, and, for the purpose of this paragraph, an indi-

1 vidual shall be considered to seek nomination for
2 election, or election, to an elective office, if the indi-
3 vidual has—

4 “(A) taken the action required to qualify
5 for nomination for election, or election, to that
6 office; or

7 “(B) received any political contribution
8 (other than any personal services described in
9 paragraph (3)(C)) or made any expenditure, or
10 has given consent for any other person to re-
11 ceive any political contribution (other than any
12 such personal services) or make any expendi-
13 ture, with a view to bringing about the individ-
14 ual’s nomination for election, or election, to
15 that office;

16 “(3) the term ‘political contribution’ means any
17 gift, subscription, loan, advance, or deposit of money
18 or anything of value, made for any political purpose,
19 and includes—

20 “(A) any contract, promise, or agreement,
21 express or implied, whether or not legally en-
22 forceable, to make a contribution for any politi-
23 cal purpose;

24 “(B) any payment by any person, other
25 than a candidate or a political party or affili-

1 ated organization, of compensation for the per-
2 sonal services of another person which are
3 rendered to any candidate or political party or
4 affiliated organization without charge for any
5 political purpose; and

6 “(C) the provision of personal services for
7 any political purpose;

8 “(4) the term ‘superior’ means any employee
9 who exercises supervision of, or control or adminis-
10 trative direction over, another employee;

11 “(5) the term ‘elective office’ means any elective
12 public office and any elective office of any political
13 party or affiliated organization;

14 “(6) the term ‘person’ includes any individual,
15 corporation, trust, association, State, local, or for-
16 eign government, territory or possession of the Unit-
17 ed States, or agency or instrumentality of any of the
18 foregoing; and

19 “(7) the term ‘Special Counsel’ means the Spe-
20 cial Counsel appointed under section 1211(b).

21 **“§ 7323. Use of official influence or official informa-**
22 **tion; prohibition**

23 “(a) An employee may not directly or indirectly use
24 or attempt to use the official authority or influence of the
25 employee for the purpose of—

1 “(1) interfering with or affecting the result of
2 any election; or

3 “(2) intimidating, threatening, coercing, com-
4 manding, influencing, or attempting to intimidate,
5 threaten, coerce, command, or influence—

6 “(A) any individual for the purpose of
7 interfering with the right of any individual to
8 vote as the individual may choose, or of causing
9 any individual to vote, or not to vote, for any
10 candidate or measure in any election;

11 “(B) any person to give or withhold any
12 political contribution; or

13 “(C) any person to engage, or not to en-
14 gage, in any form of political activity.

15 “(b) An employee may not directly or indirectly use
16 or attempt to use, or permit the use of, any official infor-
17 mation obtained through or in connection with such em-
18 ployee’s employment for any political purpose, unless the
19 official information is available to the general public.

20 “(c) For the purpose of subsection (a), ‘use of official
21 authority or influence’ includes—

22 “(1) promising to confer or conferring any ben-
23 efit (such as any compensation, grant, contract, li-
24 cense, or ruling) or effecting or threatening to effect

1 any reprisal (such as deprivation of any compensa-
2 tion, grant, contract, license, or ruling); or

3 “(2) taking, directing others to take, rec-
4 ommending, processing, or approving any personnel
5 action.

6 “(d) Nothing in this section shall be considered to
7 apply with respect to any actions if, or to the extent that,
8 such actions are taken in order to carry out the duties
9 and responsibilities of one’s position.

10 **“§ 7324. Solicitation; prohibition**

11 “(a) An employee may not—

12 “(1) give or offer to give a political contribution
13 to any individual either to vote or refrain from vot-
14 ing, or to vote for or against any candidate or meas-
15 ure, in any election;

16 “(2) solicit, accept, or receive a political con-
17 tribution to vote or refrain from voting, or to vote
18 for or against any candidate or measure, in any elec-
19 tion;

20 “(3) knowingly give or hand over a political
21 contribution to a superior of the employee; or

22 “(4) knowingly solicit, accept, or receive, or be
23 in any manner concerned with soliciting, accepting,
24 or receiving, a political contribution—

1 “(A) from another employee (or a member
2 of another employee’s immediate family) with
3 respect to whom the employee is a superior; or

4 “(B) in any room or building occupied in
5 the discharge of official duties by—

6 “(i) an individual employed or holding
7 office in the Government of the United
8 States; or

9 “(ii) an individual receiving any salary
10 or compensation for services from money
11 derived from the Treasury of the United
12 States.

13 “(b)(1) In addition to the prohibitions of subsection
14 (a), an employee may not knowingly solicit, accept, or re-
15 ceive a political contribution from, or give a political con-
16 tribution to, any person who—

17 “(A) has, or is seeking to obtain, contractual or
18 other business or financial relations with the agency
19 in which the employee is employed;

20 “(B) conducts operations or activities which are
21 regulated by that agency; or

22 “(C) has interests which may be substantially
23 affected by the performance or nonperformance of
24 the employee’s official duties.

1 “(2) The Special Counsel shall prescribe regulations
2 which exempt an employee from the application of para-
3 graph (1) with respect to any political contribution to or
4 from an individual who has a familial or personal relation-
5 ship with the employee if the employee complies with such
6 requirements as the Special Counsel shall so prescribe
7 which relate to the disqualification of the employee from
8 engaging in any official activity involving the individual.

9 “(3) The Special Counsel shall prescribe regulations
10 under which paragraph (1) shall not apply with respect
11 to any political contribution from a person in situations
12 in which the facts and circumstances indicate there would
13 not be any adverse effect on the integrity of the Govern-
14 ment or the public’s confidence in the integrity of the Gov-
15 ernment.

16 **“§ 7325. Political activities on duty, etc.; prohibition**

17 “(a) An employee may not engage in political activ-
18 ity—

19 “(1) while the employee is on duty;

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

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

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

4 “(b)(1) An employee described in paragraph (2) may
5 engage in political activity otherwise prohibited by sub-
6 section (a) if the costs associated with that political activ-
7 ity are not paid for by money derived from the Treasury
8 of the United States.

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

10 “(A) the duties and responsibilities of whose po-
11 sition continue outside normal duty hours and while
12 away from the normal duty post; and

13 “(B) who is—

14 “(i) paid from an appropriation for the Ex-
15 ecutive Office of the President; or

16 “(ii) appointed by the President, by and
17 with the advice and consent of the Senate,
18 whose position is located within the United
19 States, who determines policies to be pursued
20 by the United States in its relations with for-
21 eign powers or in the nationwide administration
22 of Federal laws.

23 **“§ 7326. Candidates for elective office; leave**

24 “(a) Except as provided in subsection (c), an em-
25 ployee who is a candidate shall, upon the request of the

1 employee, be granted leave without pay for the purpose
2 of allowing the employee to engage in activities relating
3 to that candidacy.

4 “(b) Notwithstanding section 6302(d), and except as
5 provided in subsection (c), an employee who is a candidate
6 shall, upon the request of the employee, be granted ac-
7 crued annual leave for the purpose of allowing the em-
8 ployee to engage in activities relating to that candidacy.
9 Leave under this subsection shall be in addition to leave
10 without pay to which the employee may be entitled under
11 subsection (a).

12 “(c) A request for leave submitted under subsection
13 (a) or (b) may be denied if the exigencies of the public
14 business so require. Any such denial shall be in writing
15 and shall be accompanied by a statement of the reasons
16 why the request is being denied.

17 “(d) An employee may not be required to take leave
18 without pay under subsection (a), or accrued annual leave
19 under subsection (b), in order to be a candidate, unless
20 the activities relating to the candidacy interfere with the
21 employee’s performance of the duties of the position.

22 **“§ 7327. Regulations**

23 “The Special Counsel shall prescribe any rules and
24 regulations necessary to carry out this subchapter.”.

1 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

2 (1) Section 3302(2) of title 5, United States Code, is
3 amended by striking “7203, 7321, and 7322” and insert-
4 ing “and 7203”.

5 (2)(A) Sections 8332(k)(1), 8706(c), and 8906(e)(2)
6 of title 5, United States Code, are each amended by insert-
7 ing immediately after “who enters on” the following:
8 “leave without pay granted under section 7326(a) of this
9 title, or who enters on”.

10 (B) Section 8411(e) of title 5, United States Code,
11 is amended by inserting immediately before “approved
12 leave without pay” the following: “leave without pay
13 granted under section 7326(a) of this title, or”.

14 (3) The section analysis for subchapter III of chapter
15 73 of title 5, United States Code, is amended to read as
16 follows:

“SUBCHAPTER III—POLITICAL ACTIVITIES

“7321. Political participation.

“7322. Definitions.

“7323. Use of official influence or official information; prohibition.

“7324. Solicitation; prohibition.

“7325. Political activities on duty, etc.; prohibition.

“7326. Candidates for elective office; leave.

“7327. Regulations.”.

17 (4) Section 1216(c) of title 5, United States Code is
18 amended—

19 (A) by striking paragraph (1); and

20 (B) in paragraph (2), by striking “(2) If” and
21 inserting “If”.

1 (c) AMENDMENTS TO TITLE 18.—(1) Section 602 of
2 title 18, United States Code, relating to solicitation of po-
3 litical contributions, is amended—

4 (A) by inserting “(a)” before “It”;

5 (B) by striking all that follows “Treasury of the
6 United States” and inserting a semicolon and the
7 following:

8 “to knowingly solicit any contribution within the meaning
9 of section 301(8) of the Federal Election Campaign Act
10 of 1971 from any other such officer, employee, or person.

11 Any person who violates this section shall be fined under
12 this title or imprisoned not more than three years, or
13 both.”; and

14 (C) by adding at the end the following:

15 “(b) The prohibition in subsection (a) shall not apply
16 to any activity of an employee (as defined in section
17 7322(1) of title 5) or any individual employed in or under
18 the United States Postal Service or the Postal Rate Com-
19 mission, unless that activity is prohibited by section 7323
20 or 7324 of that title.”.

21 (2) Section 603 of title 18, United States Code, relat-
22 ing to making political contributions, is amended by add-
23 ing at the end thereof the following new subsection:

24 “(c) The prohibition in subsection (a) shall not apply
25 to any activity of an employee (as defined in section

1 7322(1) of title 5) or any individual employed in or under
2 the United States Postal Service or the Postal Rate Com-
3 mission, unless that activity is prohibited by section 7324
4 of that title.”.

5 (d) AMENDMENTS TO THE VOTING RIGHTS ACT OF
6 1965.—Section 6 of the Voting Rights Act of 1965 (42
7 U.S.C. 1973d) is amended by striking out “the provisions
8 of section 9 of the Act of August 2, 1939, as amended
9 (5 U.S.C. 118i), prohibiting partisan political activity”
10 and by inserting in lieu thereof “the provisions of sub-
11 chapter III of chapter 73 of title 5, United States Code,
12 relating to political activities”.

13 (e) APPLICABILITY TO POSTAL OFFICERS AND EM-
14 PLOYEES.—

15 (1) IN GENERAL.—The amendments made by
16 this section, and any regulations thereunder, shall
17 apply with respect to officers and employees of the
18 United States Postal Service and the Postal Rate
19 Commission, pursuant to sections 410(b) and
20 3604(e) of title 39, United States Code.

21 (2) INVESTIGATIVE AND ENFORCEMENT AU-
22 THORITY.—The Special Counsel (appointed under
23 section 1211(b) of title 5, United States Code) may
24 conduct investigations and seek disciplinary action
25 with respect to any officer or employee referred to

1 in paragraph (1) in accordance with applicable pro-
2 visions of chapter 12 of such title.

3 **SEC. 3. EFFECTIVE DATE.**

4 (a) IN GENERAL.—The amendments made by this
5 Act shall take effect 120 days after the date of the enact-
6 ment of this Act, except that the authority to prescribe
7 regulations granted under section 7327 of title 5, United
8 States Code (as added by section 2 of this Act), shall take
9 effect on the date of the enactment of this Act.

10 (b) PENALTIES NOT AFFECTED.—Any repeal or
11 amendment made by this Act of any provision of law shall
12 not release or extinguish any penalty, forfeiture, or liabil-
13 ity imposed under that provision, and that provision shall
14 be treated as remaining in force for the purpose of sus-
15 taining any proper proceeding or action for the enforce-
16 ment of that penalty, forfeiture, or liability.

17 (c) PENDING PROCEEDINGS NOT AFFECTED.—No
18 provision of this Act shall affect any judicial or adminis-
19 trative proceeding commenced on or before the effective
20 date of the amendments made by this Act. Orders shall
21 be issued in such proceedings and appeals shall be taken
22 therefrom as if this Act had not been enacted.

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