The Hatch Act and the Political Process

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The City of Ogden, Utah has attracted the attention of the U.S. Office of Special Council this week, as the case against Chief of Police Jon Greiner continues to develop. Recently, the federal Merit Systems Protection Board upheld a judge’s 2010 decision that Greiner’s 2006 Utah State Senate campaign violated the Hatch Act. This decision almost certainly spells termination for Greiner.

Greiner has been convicted of violating The Hatch Act of 1939 (5 U.S.C. §1501 – 1508), a piece of legislation designed to limit the political behavior of state and federal entities in order to prevent corruption in the political process. It prohibits federal employees within the executive branch, or state and local government employees who oversee federal grant money from taking “any active part in political management or in political campaigns.”

The act is traditionally understood to prohibit specific types of government employees from endorsing candidates, but in this case, the candidate Greiner endorsed was himself. His campaign and election to the Utah State Senate’s 18th District came while he served as Ogden’s Chief of Police, and oversaw over $1 million in federal grants. This conflict of interests is expressly prohibited by the Hatch Act.

Greiner is not currently serving as a State Senator; he did not seek reelection after his first 4 year term in office. The Utah State Legislature meets for only 45 days per year, which made it possible for him to keep his job as Police Chief during his time in the Senate. He earned less than $13,000 per year for his service.

Neither the City of Ogden nor Senator Greiner will face any punishment if Greiner is removed from office. If Ogden chooses to keep Senator Greiner on staff, they will forfeit federal grant money equivalent to two years worth of his pay; in this case, about $215,000. If rehired by any local
government within the state of Utah within 18 months of his firing, this government would also face the withholding of federal funds. This punishment is spelled out in the Act.

The Act itself has been on the books for over 70 years, and creates strong prohibitions for some state and federal employees. Affected employees are prohibited from such political actions as organizing political meetings, assisting in voter registration drives, circulating petitions, hosting political fundraisers, wearing partisan political items, or even donating to a specific candidate or party. They are allowed to vote, but not to bring anyone with them to the voting location.

Most government employees may take any position of political involvement. The Act only applies to federal employees of the Executive Branch (ie: Departments of Agriculture, Defense, Health and Human Services, etc.), or state and local employees who oversee federal grant money.