

LOCAL LAW NO. "C" FOR 2007

A LOCAL LAW OF THE COUNTY OF ALBANY ENTITLED "THE ALBANY COUNTY HATCH ACT"

Introduced: 3/12/07

By Mr. Hoblock, Ms. Benedict and Mr. Carman:

Be It Enacted as Follows:

Section 1: Purpose and Findings

- A. This law shall be known as the "Albany County Hatch Act."
- B. The County of Albany ("County") hereby finds and declares that County government and the People of Albany County are best served when its employees do not feel implicitly or explicitly compelled to and do not engage in partisan political activity. The County further finds that implementation of the federal Hatch Act has served this nation well by removing federal workers from the pressures of partisan politics.
- C. The Supreme Court of the United States in United States Civil Service Commission v. National Association of Letter Carriers, AFL-CIO, 413 U.S. 548 (1973) declared that the federal Hatch Act does not violate the First Amendment of the Constitution. See also Belle v. Town Bd. of Town of Onondaga, 61 A.D.2d 352 (1978) ("Letter Carriers reaffirmed the authority of the federal government to prohibit its officers and employees from engaging in political activity or making political contributions.>").
- D. The County finds that "Employees of state and local governments may be subject to a 'little Hatch Act' designed to ensure that government operates effectively and fairly, that public confidence in government is not undermined, and that government employees do not become a powerful political machine controlled by incumbent officials." Abood v. Detroit Board of Education, 431 U.S. 209, 230 n. 27 (1977).
- E. The Courts of the State of New York have repeatedly upheld state and local version of the Hatch Act as constitutional.
- F. The County encourages all of its employees to participate vigorously in the political process in a manner consistent with this Local Law including the right to vote as they choose and to express their opinions on political subjects and candidates.

Section 2: Definitions

A. "County" means the County of Albany;

B. "County agency" means all departments of the executive branch of a County, or an agency, bureau, or department thereof;

C. Party means any political organization which at the last preceding election for governor polled at least fifty thousand votes for its candidate for governor and any organization or group which nominates a candidate or candidates for office to be voted for at an election;

D. Party position means the membership on a party committee or the position of delegate or alternate to a party convention; and

E. "County officer or employee" means an individual employed by the County or an individual whose principal employment is in connection with an activity which is financed in whole or in part by loans or grants by the County but does not include —

1. an individual who exercises no functions in connection with that activity; or
2. an individual employed by an educational or research institution, establishment, agency, or system which is supported by a recognized religious, philanthropic, or cultural organization.

Section 3: Prohibitions

A. County officer or employee may not--

1. use his official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office;
2. directly or indirectly coerce, attempt to coerce, command, or advise a County officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes;
3. pay, lend, or contribute anything of value to a County officer or employee for political purposes;

4. be a candidate for elective public or party office;
5. take an active part in political management or in a political campaign activities involving the election of a public office of Albany County government; the prohibition of this paragraph include but are not limited to-
 - (a) Directly or indirectly soliciting, receiving, collecting, handling, disbursing, or accounting for assessments, contributions, or other funds for a partisan political purpose;
 - (b) Organizing, selling tickets to, promoting, or actively participating in a fund-raising activity that benefits directly or indirectly a candidate for a public office of Albany County government (“candidate”);
 - (c) Soliciting votes in support of or in opposition to candidate;
 - (d) Acting as recorder, watcher, challenger, or similar officer at the polls in any election involving a public office of Albany County government;
 - (e) Driving voters to the polls in any election involving a public office of Albany County government;
 - (f) Endorsing or opposing a candidate for a public office of Albany County government in a political advertisement, a broadcast, campaign literature, or similar material;
 - (g) Addressing a convention, caucus, rally, or similar gathering of a political party in support of or in opposition to a candidate for a public office of Albany County government; and
 - (h) Initiating or circulating a partisan designating or nominating petition that includes a candidate for a public office of Albany County government .

B. A County officer or employee retains the right to vote as he chooses and to express his opinions on political subjects and candidates.

C. Subsection (A)(3-5) of this section does not apply to--

1. any official who holds an elective office within the County;
2. the staff of the County Executive; the County Comptroller; and County Legislature;

Section 4: Enforcement

- A. The provisions of Section 3 shall be enforced by the Albany County Ethics Commission (“Commission”).
- B. Any person or political party may file a complaint with the Albany County Ethics Commission alleging a violation of this local law.
- C. Within 20 days after the receipt of the complaint, the Commission shall review the complaint. If the complaint on its face alleges a violation of the provisions of this local law, the Commission shall notify immediately the County officer or employee accused of a violation.
- D. Within 15 days after the review of the complaint and the notification of County officer or employee who is accused of a violation, the Commission shall conduct a prompt public evidentiary hearing upon notice to the accused and the complainant. The accused shall be entitled to counsel, be allowed to present evidence in his defense and cross-examine witnesses.
- E. The provisions of Section 3 shall be interpreted in a manner consistent with the federal Hatch Act and all case decisions, administrative decisions, and administrative regulations interpreting the federal Hatch Act shall be deemed relevant authority on the interpretation of Section 3.
- F. Upon the review of the entire record, if the Commission determines that there is a violation of Section 3, then the Commission shall report its findings to the County Executive and the County Comptroller who shall immediately remove the officer or employee from his office or employment and cease the payment of his salary; or cease the funding of the organizations that receives County funds.
- G. The Commission shall notify the officer or employee of the determination by registered or certified mail;

Section 5: Advisory Opinion

Any County officer or employee may seek an advisory opinion from either the County Attorney or the Commission with respect to the proper interpretation of this

Law. Any advisory opinion rendered under this section shall be interpreted in a manner consistent with the federal Hatch Act and all case decisions, administrative decisions, and administrative regulations interpreting the federal Hatch Act shall be deemed relevant authority on the interpretation of this law.

Section 6: Exemption

Any County officer or employee who currently holds an elective party position shall not be prohibited from holding such a position during their tenure as a County officer or employee.

Section 7: Severability

If any part or provision of this local law, or the application thereof to any individual or circumstance, is held invalid, the remainder of the local law shall not be affected thereby and shall continue in force and effect.

Section 8: Effective Date

This local law shall take effect immediately.

Referred to Law Committee. 3/12/07