
Social Workers and Politics: Beyond the Hatch Act

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For more than 50 years, social workers and other public service employees have been subject to real and perceived restrictions of federal and state laws governing political activity. The result has been a passivity by the social work profession in responding to issues of advocacy and social reform and general confusion with regard to federal and state rules governing political behavior. This article examines the historical context of governmental control over employee political activities and the implications for social work practice. It offers concrete suggestions to social workers interested in exploring political action, particularly at a time when there is significant public distrust of elected and appointed officials.

Key Words: Hatch acts; political activity; social reform

At a time when most Americans are growing increasingly disillusioned with U.S. politics, four trends have emerged that could have significant implications for social workers interested in political action: (1) development of an anti-incumbency movement; (2) increased voter apathy, partly in response to candidates who do not appeal to voters' or potential voters' interests; (3) growing lack of identification or affiliation with any one political party, as shown by Ross Perot's independent candidacy for president in 1992; and (4) broad distrust of elected and appointed officials. Although these trends do not speak well of U.S. political affairs, they may offer opportunities for social workers to enter the political arena in a way that could both increase public recognition of the profession and provide a conscience to the world of politics. This article examines some of the confusing issues and barriers that have historically discouraged social workers from getting involved in politics, including the federal Hatch Political Activity Act and Internal

Revenue Code limitations on employee and agencies' political activities. Furthermore, the article offers suggestions to increase the political opportunities for social workers.

Price of Inaction

It is old news that since its beginnings the social work profession has been at war with itself about the extent to which it should engage in matters of social justice and reform. Drawn by the need to gain both professional status and public recognition, social workers' efforts toward major social reforms were usually dampened by politically conservative times. Thus, the tendency to turn inward and away from both advocacy and controversy may have slowed the profession down in gaining any real political leverage.

Haynes and Mickelson (1991) noted that social workers faced hard times during the Reagan and Bush presidencies of the 1980s:

The failure of the social work profession to assume a position of leadership in the movement

for social reform is inconsistent with its historical and philosophical background. The relatively nonactivist professional of the 1980s exists in stark contrast with the turn-of-the-century reformers. A major characteristic of social workers of yesteryear were their efforts to direct the public toward social injustice, whereas a frequently noted characteristic of social work since the 1970s is its failure to speak out about the inadequacies of welfare and other programs in urban communities as well as in the rest of the United States. Clearly, the profession's apparent reticence to address social problems that undermine the self-respect and morale of the individual is incongruent with its belief in the dignity and worth of human beings. (p. 4)

Regardless of the reasons for it, the price of the inaction of the 1980s was a bitter one to pay in terms of cumulative effects, as evidenced by the following examples:

- Between 1981 and 1989 federal expenditures for subsidized housing and the number of federal housing starts decreased more than 80 percent (Applebaum, 1989).
- In 1981 the federal government spent \$7 on defense for every \$1 spent on housing; by the end of President Ronald Reagan's second term, \$46 went toward defense for every \$1 going toward housing, an increase of 557 percent (Applebaum, 1989).
- Tax law changes implemented in 1981 doubled the tax rates for poor Americans (Gottschalk, 1984).
- Between 1978 and 1990 the total number of people living in poverty increased from 25.5 million to 33.6 million, representing an increase of almost 32 percent (U.S. Bureau of the Census, 1992).

Add to these facts the state of the U.S. economy: 1982 marked the greatest recession since the Great Depression, its depth "leaving a legacy of reduced family incomes, higher poverty rates, damaged economic status of historically disadvantaged groups, and decreased job opportunities in the traditionally high-paying manufacturing sector" (Fox, 1989, p. xi). Tax cuts initiated in 1981 ultimately led to the ballooning of the federal budget deficit, the largest in the nation's history. Deregulation of the savings and loan industry allowed it to ultimately self-destruct, adding more than \$100 billion to the fiscal crisis. At the same time, the

growth of national political conservatism—fueled in part by a cadre of skilled right-wing political activists, fundamentalist televangelists, and well-financed conservative research groups—made advocating for the economically less fortunate a risky business at best (Stoesz, 1987).

Although the Clinton administration has created a more favorable political environment for issues such as health care reform, a growing number of social workers and social work educators have suggested that such advocacy is more important now than ever before, that social workers have unique knowledge and skills that need to be applied in the political arena (Haynes & Mickelson, 1991; Mahaffey, 1987; Salcido, 1984). As Weismiller and Dempsey (1991) emphatically stated, "It is essential for social workers to extend their practice knowledge and skills to strategically participate in all of the [political] arenas to insure: (1) their professional standing is protected; (2) funding for essential programs and services is maintained; and (3) . . . government fully meets its responsibility to insure justice and social equity" (p. 1).

Moreover, as social workers become increasingly diversified in practice specialty and setting, an increasing variety of policy issues demand their attention—proposals to eliminate mandated benefits in employer group plans, managed health care, continuing issues regarding the legal regulation of practice, and increasing fiscal burdens on state and local agencies in the provision of human services.

The profession's lack of commitment to political action and social justice is further evidenced by a lack of educational preparation within schools of social work in such methods (Haynes & Mickelson, 1991). Unfortunately for the rest of the social work practice community, skills learned and applied successfully by and on behalf of client groups that could serve effectively for the profession as well are not generally covered in course curricula (Mahaffey, 1987).

Social workers to a large extent are not to be blamed for such inaction. Indeed, political action efforts have been compromised by real and perceived limits imposed by federal and state laws on the role of public employees, some of which have been in place for more than 50 years. The federal Hatch Political Activity Act (1939) had as its major purpose "to prevent pernicious political activities" by federal employees. The act was amended in 1940 to include state and local government

employees paid from federal funds through grants or loans. A variety of activities, many of which were not always directly associated with political campaigns—such as nonpartisan voter registration, expressing opinions on issues, and attending political meetings—have been interpreted as inappropriate activities and could serve as the basis for a public employee's dismissal.

One social worker, who wishes to remain anonymous, reported that her general hesitance in dealing with political matters was in part influenced by her activities as a community organizer in the late 1960s (personal communication, March 3, 1989):

I was working as a neighborhood outreach worker in one of the early Office of Economic Opportunity-funded community action agencies in the South. I worked with low-income minority neighborhood groups in organizing a community newspaper and child care center. One day I was called into the central office and notified that I was suspended until further notice.

While it took some time for the story to unfold, I was initially accused of showing civil rights films to black militants. What was more amazing were the circumstances leading to this suspicion, which actually was unfounded. One night I had left the center where I worked to go to dinner with friends, and someone had mistaken an old sewing machine left in my car to be a film projector. I had no idea as to how they thought I was showing "militant" films. I was accused of being in violation of this thing called the Hatch Act, and not only could I be fired, but the whole program was in jeopardy. When the mayor's office discovered that it was just a sewing machine, no apologies were made, and I was told to stay out of trouble. To think that I was almost "Hatched" out of the War on Poverty with a sewing machine.

Social workers' fears of reprisal or even dismissal from employment have often impeded their ability to advocate on behalf of ethical and professional interests (Alexander, 1982; Kleinkauf, 1982).

From Spoils to Merit—A Brief History Civil Service Act

During the period following the Civil War, the federal government was run on a patronage system, that is, a system of "spoils." The winning

party in an election took over bureaucracy not only by making new policy, but also by rewarding jobs to supporters. Those in power hired individuals who supported them and often used their own positions to exert influence over money and votes. For individuals solely interested in professional careers in public service, such a system was a nuisance and a form of coercion.

In response to the patronage system, a movement toward civil service reform began, with the primary aim of replacing political appointments with a merit system. The Civil Service Act (1883) was enacted to separate party politics from the administration of bureaucracy (Eccles, 1981). Also known as the Pendleton Act, this legislation established a civil service system in which employee appointments were made based on merit and without regard to political party considerations. The act also established the Civil Service Commission, which promulgated rules regarding federal employee activities that included prohibiting employees from using their official authority or influence either to coerce the political action of any person or body or to interfere with any election, forbidding employees from soliciting or receiving political contributions, prohibiting employees from taking an active part in political management or in political campaigns, and allowing employees the right to vote and to privately express their political views.

Hatch Political Activity Act

By the mid-1930s, of the 60 federal agencies, only five had been placed under the jurisdiction of the Civil Service Commission, meaning that the vast majority of federal agencies were still being staffed through patronage. Also, with the election of President Franklin Delano Roosevelt in 1933, there was growing concern about the increasing number of new federal positions that would be created by various New Deal programs. When the Civil Service Act was passed in 1883, there were about 140,000 federal employees; in 1939, there were 953,891—an increase of 581 percent (Rose, 1976). Republicans feared New Deal programs such as the Works Progress Administration (WPA) because they believed these programs would ultimately create a strong Democratic political machine. Harry Hopkins, WPA director and a social worker who had been director of New York's state welfare agency, was repeatedly accused of using the federal agency to strengthen the

Democratic Party (Eccles, 1981). Senator Carl Hatch argued that the WPA program was nothing but a massive system of "spoils" in that WPA workers were

not free men, because their very dependence makes them susceptible to the influence of the politician who comes around and says, "Now you vote so and so. If you do not, you will lose your job." How is that man going to vote? He is going to vote as he is told, because he cannot help himself. . . . The man to whom I refer has not any weapon; he has not any shield to protect himself against those, if there be any, who would seek to use him for this political purpose. The very fact that there is a prohibition against his participating in politics will give him a shield and will give him a weapon. (U.S. Congress, 1938)

There was also dissatisfaction with Roosevelt's efforts to circumvent the federal civil service system. Roosevelt believed that to attract the best people, the new agencies established to administer New Deal programs had to be autonomous. He claimed the civil service system was "an arsenal of obfuscation, populated with workers ideologically opposed to the New Deal" (Vaughn, 1976, pp. 540-541). As a result, Roosevelt was able to keep the New Deal agencies out of the civil service system until 1938.

The passage of the Hatch Political Activity Act in 1939 was fueled by two political events: The first was a series of accusations made regarding the use and coercion of WPA employees during a senatorial campaign; the second was a further concern by the Republican party that Roosevelt would attempt to gain the support of federal employees in his 1940 reelection campaign (U.S. Congressional Committee on Governmental Affairs, 1989a).

The Hatch Act's key provisions included prohibiting federal employees from interfering with an election or affecting its results, prohibiting federal employees from taking an active part in political management or in political campaigns, and firing any person who violated the provisions. Those excluded from these restrictions were the president or vice president of the United States, people whose compensation was paid from the appropriation for the office of the president, heads and assistant heads of executive departments, and certain officers appointed by the president with the advice and consent of the Senate. The act was originally intended to target the indi-

viduals who were the real abusers of the system, that is, political appointees who used their positions for influence. Unfortunately, most of these people were not classified as civil servants (Eccles, 1981).

The Hatch Act remained largely unchanged until the 1970s, when rulings made by the Civil Service Commission caused significant confusion as to what roles if any public employees could play in the electoral process. For instance, Magness (1986) asserted that rules governing employee behavior do not clearly distinguish between permissible and prohibited activities. For example, employees could run for office in nonpartisan elections but could not be candidates in partisan elections and could run for council in a city where elections are nonpartisan but not in a city where similar elections are held on a partisan basis.

Such proscriptions were further complicated by the authority bestowed on heads of federal agencies to further prohibit employee activities "if participation in the activity would interfere with the efficient performance of official duties, or create a conflict or apparent conflict of interests" (Magness, 1986, p. 1506). Furthermore, nongovernmental agencies were also restricted in political activities, including community action agencies and related projects (for example, Head Start programs, Meals on Wheels programs, VISTA projects, and legal services offices). VISTA workers were further prohibited from engaging in any voter registration efforts, providing transportation to polls, or lobbying (Crittenden, 1984).

Easing the Restrictions

Amendments were made to the Hatch Act in 1974 that loosened the restrictions on state and local employees. With the exception of adding restrictions on running as a candidate in a partisan election, state and local employees were allowed, at least under federal statute, to participate in political activities, including election campaigns (Vaughn, 1976). However, even as the political process was opening up for public servants, more severe abuses and misuse of power were discovered. Just two years before, President Richard Nixon had used his executive power to gain political control over all governmental agencies and bypass the civil service system by removing and transferring employees, channeling funds to partisan allies, and undertaking negative campaign tactics to damage political "enemies" and ensure his re-election (Magness, 1986; Vaughn, 1976).

During the 94th Congress, the Federal Employees Political Activities Act was introduced, which would have removed prohibitions on voluntary political activities of federal employees, allowing employees to participate in the management of political campaigns and to run for political office. Furthermore, the act clarified what political activities employees could and could not do within the workplace. Also, employees could be granted accrued annual leave to run for political office. Ultimately, the legislation was vetoed in 1976 by President Gerald Ford.

There has been continued criticism that the Hatch Act has done more to violate the First Amendment rights of citizens than to preserve political neutrality. Moreover, its opponents have noted that the United States places more restrictive conditions on its public employees than other democratic nations such as Great Britain, Canada, Denmark, Sweden, and Australia (McCart, 1978). On two occasions the U.S. Supreme Court has ruled that the Hatch Act was not in violation of First Amendment rights because of constitutional vagueness or overbreadth (*United Postal Workers of America [C.I.O.] v. Mitchell*, 1947; *U.S. Civil Service Commission v. National Association of Letter Carriers*, 1973). However, in a dissenting opinion in the 1973 case, Justices William Orville Douglas, William Joseph Brennan Jr., and Thurgood Marshall wrote,

We deal here with a First Amendment right to speak, to propose, to publish, to petition Government, to assemble. Time and place are obvious limitations. Thus, no one could object if employees are barred from using office time to engage in outside activities whether political or otherwise. But it is of no concern to Government what an employee does in his or her spare time, whether religion, recreation, social work, or politics is his hobby—unless what he or she does impairs efficiency or other facets of the merits of his job. . . . But his political creed, like his religion, is irrelevant. (p. 2907)

Furthermore, the Hatch Act is confusing in terms of both who is covered by its restrictions and what constitutes "political activity" (Pawlak & Flynn, 1990) (see Table 1). A 1982 study conducted by the West Virginia University School of Social Work revealed that social services employees were generally uninformed about state and federal laws and regulations governing political

participation (Schultz, 1982). Only 27 percent of the individuals surveyed felt that the rules were clear and understandable enough for them to know what activities were allowed. Similarly, a survey conducted by the *West Virginia Law Review* indicated that many people not covered by federal or state restrictions thought they were covered and reported a number of legitimate political activities in which they felt constrained from participation (Crittenden, 1984).

In 1984 the Hatch Act received renewed scrutiny in the wake of federal employee union endorsements for a presidential candidate. While on leave from their federal jobs, the presidents of the Federation of Governmental Employees, the National Association of Letter Carriers, and the American Postal Workers Union all endorsed Walter Mondale for president. The endorsements were made public in their union publications, and they encouraged their members to support Mondale. Although all three presidents had been on leave from their jobs for more than 16 years, they were sued by the Office of Special Counsel for their violation of the prohibitions against active political participation. This finding was upheld by the Merit System Protection Board, and all the presidents were suspended from their federal employment for 60 days. Because none of them were in their federal jobs at the time of their endorsements, however, the suspensions could not be enforced. The decision of the board was reversed in two Federal Circuit Court decisions that found that there had been no Hatch Act violations, and the board was unable to appeal the decisions to the Supreme Court (U.S. Congressional Committee on Governmental Affairs, 1989a). Although there had been previous endorsements for candidates by heads of federal employee unions with no legal retribution, the issue of partisan enforcement of the Hatch Act had now been raised. As a consequence, in both the 100th and 101st Congresses, Hatch Act reform legislation was introduced because "employees should be encouraged to exercise fully, freely, and without fear of penalty or reprisal, and to the extent not expressly prohibited by law, their right to participate or refrain from participating in the political processes of the nation" (U.S. Congressional Committee on Governmental Affairs, 1989a, p. 9).

Key provisions would allow employees to hold office in a political party; conduct and participate in phone banks while off duty; actively campaign,

Table 1

Political Activities of Federal Employees Covered by the Federal Hatch Act

Permitted Activities	Prohibited Activities
Register to vote and vote	Hold political party office
Contribute money to partisan political campaigns	Run for partisan office
Express views in private and in public, although not to elicit support for a candidate or party	Distribute campaign literature
Assist in nonpartisan voter registration drives	Participate in phone banks
Attend conventions and rallies as a spectator	Serve as a delegate at a political party convention
Participate as a nonpartisan pollwatcher or election judge	Solicit contributions
Run as an independent candidate in certain partisan elections in designated areas with a high concentration of federal employees	Organize partisan fundraisers
Wear buttons with political messages while off duty, subject to various agency restrictions	Act as a pollworker in a partisan capacity
Participate in nonpartisan elections	Publicly endorse political candidates (although the employee's union may make endorsements)

NOTE: Employees covered include all employees whose positions are federally funded or whose primary functions are in connection with a program financed in whole or in part by federal loans or grants. The statute applies to employees both on and off duty, including periods of leave, unless otherwise indicated.

including distributing campaign literature and soliciting votes while off duty; participate in political meetings while off duty; endorse candidates and encourage others to support them; solicit contributions to a political action committee of a federal employee organization to which both the employee and donor belong while off duty; run for and hold public office while off duty; and be entitled to unpaid annual leave (U.S. Congressional Committee on Governmental Affairs, 1989a). Legislation was passed by Congress in 1991 addressing most of these provisions (with the exception of federal employees being able to run for partisan office) but was vetoed by President George Bush.

Finally in 1993, Congress successfully changed the 1939 act. In addition to strengthening the requirements regarding on-duty activities, the legislation expands off-duty activities for federal employees. On October 6, 1993, President Bill Clinton signed into law P.L. 104-94. Key provisions include restricting federal employees from

participating in campaign activities while on duty, including wearing campaign buttons, and allowing employees to hold office in a political party, participate in campaigns and political rallies, publicly endorse candidates, and raise political funds within their agency's political action committee. The law does not allow employees to run for partisan elective office or to raise funds from the general public (Ponessa, 1993).

State Hatch Acts

Following the federal government's lead, numerous states have adopted similar legislation, commonly known as "Little Hatch Acts." These laws apply to certain state employees whose positions are entirely state funded or who do not normally perform duties related to federally financed activities. The laws generally prescribe conditions under which employees may not use their role or authority to interfere with elections, solicit contributions, or engage in coercion or other activities interfering with state business, and the laws also

include provisions for employees seeking elected office. Employees paid by state funds are usually not covered by state Hatch acts while off duty or on leave, but this varies from state to state.

IRS Code Restrictions

Nonprofit organizations are granted tax-exempt status by the Internal Revenue Service (IRS) when it determines that such organizations are "organized and operated exclusively" for religious, charitable, scientific, and other "general public good" interests (Internal Revenue Code of 1954, updated 1982). The advantages of tax-exempt status include exemption from paying federal social security taxes, reduced postal rates, and ability to receive tax-deductible charitable contributions. However, this status prohibits organizations from involvement in political campaigns and requires that no major portion of their activities goes toward influencing public policy. There has been continued debate as to whether the IRS statute also infringes on First Amendment rights (West, 1986). Most importantly, as social workers consider entering political campaigns, either their own or someone else's, they need to be certain that their organization's name, resources, facilities, personnel, and clients are not being exploited for political purposes.

Implications for Social Work

In the wake of congressional check-writing scandals and charges of sexual harassment, the Whitewater uproar, conflicts of interests, and general misuse of elected officials' roles, there is general concern that laws governing the political conduct of public employees are not applicable to those who seem to be the greatest abusers. For example, by the end of the Reagan administration, scores of officials left office under charges of ethical misconduct. Although social workers need to be aware of the limits of federal and state Hatch acts, they also need to support efforts to reform laws that unfairly restrict their involvement in various political affairs. Furthermore, although such laws are restrictive and vague, they should not be seen as the primary detractors to political activism and possible elected public service. Indeed, Haynes and Mickelson (1991) contended that attention should be paid to other factors as well, including agency fears about potential alienation regarding government funding, differences in political views between agency boards of directors and staff regarding positions on issues,

agency inflexibility regarding social workers' time to campaign, limited financial resources, and inability to gain constituency support through clients. The following suggestions may prove useful for anyone considering a career in political action, either as a candidate or in work in electoral campaigns.

First, consider seeking a nonpartisan office. School board, town and city council, county commission, judicial, and mayoral races are often not tied to partisan politics and are not covered by the federal Hatch Act. Not only do these offices serve as good training grounds for political careers, but important decisions are made regarding locally based services, taxes, and funding decisions. In addition, with the exception of some mayoral races, raising large amounts of money is not necessary. Local politics also provides great opportunities to increase one's name recognition.

Second, review all restrictions on receiving federal or state funds as they apply to your agency. Such restrictions may vary among funding sources, and different reporting requirements may constitute additional restrictions. Likewise, agency bylaws and personnel policies may prohibit staff from participating in political activity.

Third, encourage state chapters of the National Association of Social Workers (NASW) to keep copies of both federal and state Hatch acts and related legal rulings available for any social workers requesting such information. Social workers often do not know if they are covered by these laws, and an easily accessible central repository would prove both informative and helpful. In addition, NASW should continue its work with groups such as the Women's Political Caucus that provide ongoing nonpartisan information and training to candidates and would-be candidates considering political careers.

Fourth, have open discussions with agency boards of directors regarding potential interests in electoral politics. For too long the politics of intimidation through the loss or withdrawal of funding have rendered agencies helpless, particularly as they continue to experience massive funding cuts. The problem may be that agencies have been too apolitical, with the clients being the losers. Boards of directors need to weigh the advantages and disadvantages of employee political activities and begin putting policies in place that protect the agency and workers should such opportunities for electoral office arise. Designing policies that provide for leaves of absences to run for office or the use of accrued leave for such purposes could be prudently adopted.

Fifth, consider opportunities for being appointed to state and local government boards and commissions, legislative study committees, and the like. These regulatory and policy formulation bodies are responsible for promulgating and enforcing legislation, rules, and standards. Such bodies may include state social work licensure boards, boards monitoring standards of care and ethical conduct, and work groups charged with developing legislative proposals in key social policy areas.

Conclusion

The ambiguities associated with federal and state Hatch acts and the IRS Code, along with current public sentiment regarding elected officials, may serve to shape new interpretations of social workers' involvement in the political arena. Restrictive policies need to be challenged, as exemplified by the successful efforts undertaken by groups such as HumanSERVE in the 1980s, which widened access to voter participation by promoting agency-based registration (Piven & Cloward, 1988). However, as one federal employee stated before a U.S. Senate Committee, the risks of political involvement often are not known: "It is only after employees jeopardize their jobs that a determination is made on whether or not an activity is permitted under the Hatch Act. Many decisions are not readily available, resulting in an inability to ascertain the precise extent of prohibited and protected activities, or the penalties involved" (U.S. Congressional Committee on Governmental Affairs, 1989b).

Social workers should work to clarify these laws as they currently exist and push for reform. Where there is confusion about "covered" status and activities, social workers should seek the assistance of legal counsel or labor organizations that represent the interests of teachers and state and municipal employees. Social workers have a great deal to offer in the political arena: skills in human relations, knowledge of public policy issues and client needs, and advocacy and organizational skills. They need to translate them into the world of politics, a field in sore need of an infusion of new, credible talent. Entering the political arena is a calculated risk, but one well worth pursuing. ■

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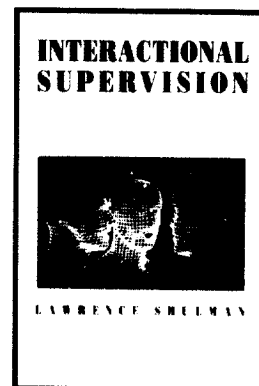
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