

# Manager Fact Sheet: Political Activity of Public Officers and Employees

April 2010

This fact sheet provides information to state human resource professionals and managers regarding public officers and employees political activities in the workplace.

Montana law specifically addresses public officers and employees' involvement in political activities. While individuals have the right to participate in the electoral process, it is important for public officers and employees to keep their political activities separate from their official duties. For that reason, public officers and employees must use their personal time to engage in campaign activities and they may not use public funds, facilities or equipment to do so.

## **General Rule of Conduct:**

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Except as provided in 2-2-121 (3)(b), MCA, a public officer or public employee may not use public time, facilities, equipment, supplies, personnel, or funds to solicit support for or opposition to any political committee, the nomination or election of any person to public office, or the passage of a ballot issue unless the use is:

- (i) authorized by law; or
- (ii) properly incidental to another activity required or authorized by law, such as the function of an elected public officer, the officer's staff, or the legislative staff in the normal course of duties [2-2-121(3)(a), MCA].

For state officers, legislators, and state employees, violations of this rule may be

referred to the Commissioner of Political Practices and may result in an administrative penalty imposed by the Commissioner of \$50 to \$1000. The Commissioner can also recommend the employing state agency proceed with disciplinary action.

## **Other Sections of Montana Law:**

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**Public Trust:** Holding of public office or employment is a public trust. A public officer, legislator, or employee whose conduct departs from the person's public duty is liable to the people of the State and is subject to penalties (2-2-103, MCA).

**Illegal Influence of Voters:** No one may induce anyone to vote for or against a candidate or ballot issue by promising anything of value, including employment or appointment (13-35-214, MCA).

**Coercion or Undue Influence of Voters:** No one may induce or compel a person to vote or refrain from voting for any candidate, the ticket of any political party, or any ballot issue by using or threatening to use coercion or other undue influence (13-35-218, MCA).

**Unlawful Acts of Employers & Employees:** It is unlawful to exhibit in the workplace handbills or placards containing any threat, promise, or notice intended or calculated to influence the political opinions or actions of the employer's employees. A person may not coerce, command, or require a public employee to



support or oppose any political committee, the nomination or election of any person, or the passage of a ballot issue (13-35-226, MCA).

A public employee may not solicit support for or opposition to any political committee, the nomination or election of any person to public office, or the passage of a ballot issue while on the job or at their place of employment (13-35-226, MCA). However, public employees are not restricted from performing activities properly incidental to another activity required or authorized by law or to express personal political views (2-2-121, MCA).

In addition, public employees may not solicit support or opposition of the preceding political activities while on the job or at the place of employment. However, they may express their personal political views.

**Discrimination by the State:** It is a discriminatory practice for the state or any of its political subdivisions: to refuse employment to a person, to bar a person from employment, or to discriminate against a person in compensation or in a term, condition, or privilege of employment because of that person's political beliefs. However, this prohibition does not apply to policymaking positions on the immediate staff of an elected officer of the executive branch provided for in Article VI, section 1, of the Montana constitution, to the appointment by the governor of a director of a principal department provided for in Article VI, section 7, of the Montana constitution, or to the immediate staff of the majority and minority leadership of the Montana legislature (49-2-308, MCA).

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### Federal Law:

**The Hatch Act** applies by extension to certain employees of state and local governments whose positions are primarily paid for by federal funds. It has been interpreted, for instance, to bar employees of state agencies administering federal unemployment insurance programs from political activity.

Employees covered by the Hatch Act may not:

- use their official authority or influence for the purpose of interfering with or affecting the results of an election or a nomination for office;
- directly or indirectly coerce, attempt to coerce, command or advise State or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for partisan political purposes; or
- be a candidate for public office in a partisan election.

For more information about the Hatch Act, see <http://www.osc.gov/hatchact.htm>.

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### Closing:

If you have questions about political activity of public officers and employees, please contact your agency's human resource office for more information.

*Alternative accessible formats of this Fact Sheet will be provided on request. Persons who need an alternative format should contact the State Human Resources Division, Department of Administration, 125 N. Roberts St., PO Box 200127, Helena, MT 59620-0127. Telephone 406-444-3871. Those using a TTY may call through the Montana Relay Service at 711.*

