



*Hal  
Johnson*

# Discussing Career Issues from Your PBA General Counsel

## So You Want To Be A Political Candidate?

### Remember the Federal Hatch Act – It may apply to you

**M**y normal practice is to write a column about collective bargaining or law enforcement discipline. Political activity is not my “thing” and I generally leave the discussion of political issues to our subject matter experts like **David Murrell, Matt Puckett** and **Ken Kopczynski**. However, over the past several months, the Florida PBA as had a number of inquiries from our members about running for partisan, elective office. Those inquiries have normally been followed by a follow-up call complaining that the member’s agency has advised the officer that if he or she intends to run for political office

then clearance under the federal “Hatch Act” is required. Since this is clearly not my area of expertise, the Florida PBA sought guidance from the law firm of Meyer and Brook, a law firm the Association utilizes for legal advice with respect to legal issues on political, campaign financing and election matter. Attached is a legal memorandum discussing the federal Hatch Act and its application to law enforcement personnel. **IF YOU ARE CONSIDERING RUNNING FOR OFFICE NOW OR IN THE FUTURE PLEASE READ THIS MEMORANDUM CAREFULLY:**

A man is caught, by a forest ranger, sitting at a makeshift campfire, and to the ranger’s horror, eating a bald eagle. The man is consequently put in jail for the crime. On the day of his trial, the conversation went something like this:

JUDGE: “Do you know that eating a bald eagle is a federal offense?”

MAN: “Yes I do. But if you let me argue my case, I’ll explain what happened.”

JUDGE: “Proceed.”

MAN: “I got lost in the woods. I hadn’t had anything to eat for two weeks. I was so hungry. Next thing I see is a Bald Eagle swooping down at the lake for some fish. I knew that if I followed the Eagle I could maybe steal the fish. I caught up with the eagle that lighted upon a tree stump to eat the fish. I threw a stone toward the eagle hoping he would drop the fish and fly away. Unfortunately, in my weakened condition, my aim was off, and the rock hit the eagle squarely on his poor little head, and killed it. I thought long and hard about what had happened, but figured that since I killed it, I might as well eat it since it would be more disgraceful to let it rot on the ground.”

JUDGE: “The court will take a recess while we analyze your testimony.”

Fifteen minutes goes by and the judge returns.

JUDGE: “Due to the extreme circumstance you were under and because you didn’t intend to kill the eagle, the court will dismiss the charges.”

The Judge then leans over the bench and whispers: “If you don’t mind my asking, what does a bald eagle taste like?”

MAN: “Well, your honor, it is hard to explain. The best I can describe it is somewhere between a California Condor and a Spotted Owl.”

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**MEMORANDUM**

TO: Hal Johnson, Esquire  
FROM: Jennifer Blohm, Esquire  
DATE: April 22, 2008  
RE: Application of Hatch Act to Florida Highway Patrol

You have requested that we review the applicable legal provisions to determine if the Hatch Act would require a trooper with the Florida Highway Patrol to resign prior to running for sheriff. The Hatch Act is a federal law that regulates the political activities of certain federal, state and local employees.

**FACTS**

Trooper XYZ is a trooper with the Florida Highway Patrol (FHP). He is considering running for sheriff, a partisan, elective office.

FHP receives several grants from the federal government. The majority of these grants are used to purchase equipment. However, one of the federal grants is used to partially fund FHP’s DUI checkpoint program. The federal funds will be used to cover overtime pay for the troopers who participate in the DUI checkpoint program. The program is a statewide program, and Trooper XYZ will participate in the program, although he may not receive overtime pay.

**ANALYSIS**

The United States Congress passed the Hatch Act in 1939. The Act limits the political activities of federal employees as well as certain state and local employees. Specifically, the Hatch Act restricts the political activities of state and local employees “whose principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the United States or a Federal agency.” 5 U.S.C. § 1501(4).

The Office of Special Counsel investigates violations of the Act by state and local employees. It also issues advisory opinions to such employees to ensure compliance with the Act. The OSC has found that “[e]mployees are subject to the Act if, as a normal and foreseeable incident of their positions or jobs, they perform duties in connection with the federally financed activities.” OSC Advisory Opinion File No. AD-06; see also In re Hutchins, 2 P.A.R. 160, 164 (1944). Coverage under the Act does not depend on the

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