

# 美國聯邦公務員政治參與的限制： 從嚴格到放寬

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本文探討美國限制公務員政治參與的理論基礎及演變過程，一九三九年哈契法，及其一九九三年的修正案是探討的重點。基本上，美國聯邦公務員政治參與的限制是從寬鬆到嚴格，再逐漸放寬的過程。主要原因是美國公共行政的發展受兩股力量的衝擊，一股力量標榜民主、選舉至上，另一股則深受文官改革以及政治—行政二分理論的影響。由於二十世紀以來，文官改革者取得主導力量，行政「非政治化」(de-politicization) 乃成爲必然趨勢。此外，行政體系在憲法上缺乏清楚的定位，亦造成公務員權益受損無從救濟的困境。隨著「非政治化」理論的式微以及公民權利意識的提高，公務員政治參與限制乃逐漸放寬。一九九三年哈契法修正案通過後，公務員可以積極參與政治，例如：從事政黨管理及選舉競爭相關活動；不過，政治分贓、腐化的疑慮仍然存在，這反應在具黨派性質政治活動、募款行爲，以及與利益衝突有關活動的限制上，同時，若干具敏感性職位仍不適用放寬規定，且罰責甚爲嚴厲。顯然，所謂的放寬並非毫無限制。一般說來，只要聯邦公務員不濫用職務上的權威，不影響其職務的正常履行，均可以積極參與政治。

**關鍵字：**聯邦公務員，哈契法，政治參與，文官改革

# The Restriction of Political Activities of Federal Employees in the United States

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## ABSTRACT

The purpose of this paper is to explore the theory and practice of the restriction of political activities of federal employees in the United States. The Hatch Acts of 1934 and 1940, which restrict government employees from taking active part in politics, are the author's main concerns. The main difficulty with the Hatch Acts is that they interfere with public employee's constitutional rights under the First and Fourteenth Amendments; however, the Supreme Court has upheld the constitutionality of the Hatch Acts in 1947 and 1973. In its view, legislatures have the power to establish such restrictions because they promote the legitimate objectives of creating and maintaining an efficient and nonpartisan civil service. Clearly Woodrow Wilson's dichotomous model still has great influence on people's thinking.

However, partly because the politic-administrative dichotomous model has been eroded gradually, and partly in response to pressure from unions representing public employees, Congress periodically develops an interest in repealing the Hatch Act. The changing process is not as smooth as imagined due to the Republican Party's opposition, because it is widely accepted that de-restriction of political activities is advantageous to the Democratic Party. As a result the amendment suffered from presidential vetoes twice by Republican Presidents, Gerald Ford in 1976 and George Bush in 1990. Finally, in 1993, the Hatch Act Reform Amendment passed successfully under a Democratic president.

**Key Words:** federal employees, the Hatch Act, political activities, civil service reform