

[CHAPTER 640]

AN ACT

To extend to certain officers and employees in the several States and the District of Columbia the provisions of the Act entitled "An Act to prevent pernicious political activities", approved August 2, 1939.

July 19, 1940
[S. 3048]

[Public, No. 753]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act entitled "An Act to prevent pernicious political activities", approved August 2, 1939, is amended to read as follows:

"SEC. 2. It shall be unlawful for (1) any person employed in any administrative position by the United States, or by any department, independent agency, or other agency of the United States (including any corporation controlled by the United States or any agency thereof, and any corporation all of the capital stock of which is owned by the United States or any agency thereof), or (2) any person employed in any administrative position by any State, by any political subdivision or municipality of any State, or by any agency of any State or any of its political subdivisions or municipalities (including any corporation controlled by any State or by any such political subdivision, municipality, or agency, and any corporation all of the capital stock of which is owned by any State or by any such political subdivision, municipality, or agency), in connection with any activity which is financed in whole or in part by loans or grants made by the United States, or by any such department, independent agency, or other agency of the United States, to use his official authority for the purpose of interfering with, or affecting, the election or the nomination of any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, or Delegate or Resident Commissioner from any Territory or insular possession."

SEC. 2. The third sentence of section 9 (a) of such Act of August 2, 1939, is amended to read as follows: "All such persons shall retain the right to vote as they may choose and to express their opinions on all political subjects and candidates."

SEC. 3. Section 10 of such Act of August 2, 1939, is amended to read as follows:

"SEC. 10. The provisions of this Act shall be in addition to and not in substitution for any other provision of law."

SEC. 4. Such Act of August 2, 1939, is further amended by adding at the end thereof the following new sections:

"SEC. 12. (a) No officer or employee of any State or local agency whose principal employment is in connection with any activity which is financed in whole or in part by loans or grants made by the United States or by any Federal agency shall (1) use his official authority or influence for the purpose of interfering with an election or a nomination for office, or affecting the result thereof, or (2) directly or indirectly coerce, attempt to coerce, command, or advise any other such officer or employee to pay, lend, or contribute any part of his salary or compensation or anything else of value to any party, committee, organization, agency, or person for political purposes. No such officer or employee shall take any active part in political management or in political campaigns. All such persons shall retain the right to vote as they may choose and to express their opinions on all political subjects and candidates. For the purposes of the second sentence of this subsection, the term 'officer or employee' shall not be construed to include (1) the Governor or the Lieutenant Governor of any State or any person who is authorized by law to act as Governor, or the mayor of any city; (2) duly elected heads of executive

Extension of Act to prevent pernicious political activities.
53 Stat. 1147.
18 U. S. C., Supp. V, § 61a.
Interference with certain elections, etc., by designated persons.
Post, p. 1032.

Right to vote, etc.
53 Stat. 1148.
18 U. S. C., Supp. V, § 61h (a).

53 Stat. 1149.
18 U. S. C., Supp. V, § 61j.
Provisions deemed supplementary.

53 Stat. 1147.
18 U. S. C., Supp. V, §§ 61-61k.
Interference with an election, etc., by certain State officers or employees.

Active political participation.

Right to vote, etc.

"Officer or employee" construed; restriction.

departments of any State or municipality who are not classified under a State or municipal merit or civil-service system; (3) officers holding elective offices.

“(b) If any Federal agency charged with the duty of making any loan or grant of funds of the United States for use in any activity by any officer or employee to whom the provisions of subsection (a) are applicable has reason to believe that any such officer or employee has violated the provisions of such subsection, it shall make a report with respect thereto to the United States Civil Service Commission (hereinafter referred to as the ‘Commission’). Upon the receipt of any such report, or upon the receipt of any other information which seems to the Commission to warrant an investigation, the Commission shall fix a time and place for a hearing, and shall by registered mail send to the officer or employee charged with the violation and to the State or local agency employing such officer or employee a notice setting forth a summary of the alleged violation and the time and place of such hearing. At such hearing (which shall be not earlier than ten days after the mailing of such notice) either the officer or employee or the State or local agency, or both, may appear with counsel and be heard. After such hearing, the Commission shall determine whether any violation of such subsection has occurred and whether such violation, if any, warrants the removal of the officer or employee by whom it was committed from his office or employment, and shall by registered mail notify such officer or employee and the appropriate State or local agency of such determination. If in any case the Commission finds that such officer or employee has not been removed from his office or employment within thirty days after notice of a determination by the Commission that such violation warrants his removal, or that he has been so removed and has subsequently (within a period of eighteen months) been appointed to any office or employment in any State or local agency in such State, the Commission shall make and certify to the appropriate Federal agency an order requiring it to withhold from its loans or grants to the State or local agency to which such notification was given an amount equal to two years’ compensation at the rate such officer or employee was receiving at the time of such violation; except that in any case of such a subsequent appointment to a position in another State or local agency which receives loans or grants from any Federal agency, such order shall require the withholding of such amount from such other State or local agency: *Provided*, That in no event shall the Commission require any amount to be withheld from any loan or grant pledged by a State or local agency as security for its bonds or notes if the withholding of such amount would jeopardize the payment of the principal or interest on such bonds or notes. Notice of any such order shall be sent by registered mail to the State or local agency from which such amount is ordered to be withheld. The Federal agency to which such order is certified shall, after such order becomes final, withhold such amount in accordance with the terms of such order. Except as provided in subsection (c), any determination or order of the Commission shall become final upon the expiration of thirty days after the mailing of notice of such determination or order.

“(c) Any party aggrieved by any determination or order of the Commission under subsection (b) may, within thirty days after the mailing of notice of such determination or order, institute proceedings for the review thereof by filing a written petition in the district court of the United States for the district in which such officer or employee resides; but the commencement of such proceedings shall not operate as a stay of such determination or order unless (1) it is specifically so ordered by the court, and (2) such

Report of violations to U. S. Civil Service Commission.

Hearings by Commission; notification.

Findings.

Employee not removed from office within stated period; withholding of Federal funds.

Amount.

Exception.

Proviso.
When funds not to be withheld.

Notice to State, etc., agency.

Petition for review.

Stay of determination or order.

officer or employee is suspended from his office or employment during the pendency of such proceedings. A copy of such petition shall forthwith be served upon the Commission, and thereupon the Commission shall certify and file in the court a transcript of the record upon which the determination or the order complained of was made. The review by the court shall be on the record entire, including all of the evidence taken on the hearing, and shall extend to questions of fact and questions of law. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that such additional evidence may materially affect the result of the proceedings and that there were reasonable grounds for failure to adduce such evidence in the hearing before the Commission, the court may direct such additional evidence to be taken before the Commission in such manner and upon such terms and conditions as to the court may seem proper. The Commission may modify its findings of fact or its determination or order by reason of the additional evidence so taken and shall file with the court such modified findings, determination, or order, and any such modified findings of fact, if supported by substantial evidence, shall be conclusive. The court shall affirm the Commission's determination or order, or its modified determination or order, if the court determines that the same is in accordance with law. If the court determines that any such determination or order, or modified determination or order, is not in accordance with law, the court shall remand the proceeding to the Commission with directions either to make such determination or order as the court shall determine to be in accordance with law or to take such further proceedings as, in the opinion of the court, the law requires. The judgment and decree of the court shall be final, subject to review by the appropriate circuit court of appeals as in other cases, and the judgment and decree of such circuit court of appeals shall be final, subject to review by the Supreme Court of the United States on certiorari or certification as provided in sections 239 and 240 of the Judicial Code, as amended (U. S. C., 1934 edition, title 28, secs. 346 and 347). If any provision of this subsection is held to be invalid as applied to any party with respect to any determination or order of the Commission, such determination or order shall thereupon become final and effective as to such party in the same manner as if such provision had not been enacted.

“(d) The Commission is authorized to adopt such reasonable procedure and rules and regulations as it deems necessary to execute its functions under this section. The Civil Service Commission shall have power to require by subpoena the attendance and testimony of witnesses and the production of all documentary evidence relating to any matter pending, as a result of this Act, before the Commission. Any member of the Commission may sign subpoenas, and members of the Commission and its examiners when authorized by the Commission may administer oaths and affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and the production of such documentary evidence may be required from any place in the United States at any designated place of hearing. In case of disobedience to a subpoena, the Commission may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence. Any of the district courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any person, issue an order requiring such person to appear before the Commission, or to produce documentary evidence if so ordered, or to give evidence touching the matter in

Transcript of record.

Review upon entire record.

Additional evidence.

Modification of Commission's order.

Affirmation by court.

Remanding of proceeding to Commission.

Finality of judgment and decree; review.

36 Stat. 1157.

When designated provision held invalid; effect.

Rules and regulations.

Attendance of witnesses, etc.

Oaths, examination of witnesses, etc.

Enforcement of subpoenas.

- Depositions. question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. The Commission may order testimony to be taken by deposition in any proceeding or investigation, which as a result of this Act, is pending before the Commission at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the Commission and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence before the Commission as hereinbefore provided. No person shall be excused from attending and testifying or from producing documentary evidence or in obedience to a subpoena on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled to testify, or produce evidence, documentary or otherwise, before the Commission in obedience to a subpoena issued by it: *Provided*, That no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.
- Incriminating evidence. *Provido*. Perjury.
- Provisions inapplicable. “(e) The provisions of the first two sentences of subsection (a) of this section shall not apply to any officer or employee who exercises no functions in connection with any activity of a State or local agency which is financed in whole or in part by loans or grants made by the United States or by any Federal agency.
- “State or local agency” defined. “(f) For the purposes of this section—
“(1) The term ‘State or local agency’ means the executive branch of any State, or of any municipality or other political subdivision of such State, or any agency or department thereof.
- “Federal agency” defined. “(2) The term ‘Federal agency’ includes any executive department, independent establishment, or other agency of the United States (except a member bank of the Federal Reserve System).
- Limitation on campaign contributions. “SEC. 13. (a) It is hereby declared to be a pernicious political activity, and it shall hereafter be unlawful, for any person, directly or indirectly, to make contributions in an aggregate amount in excess of \$5,000, during any calendar year, or in connection with any campaign for nomination or election, to or on behalf of any candidate for an elective Federal office (including the offices of President of the United States and Presidential and Vice Presidential electors), or to or on behalf of any committee or other organization engaged in furthering, advancing, or advocating the nomination or election of any candidate for any such office or the success of any national political party. This subsection shall not apply to contributions made to or by a State or local committee or other State or local organization.
- State or local committees, etc., excepted. “(b) For the purposes of this section—
“(1) The term ‘person’ includes an individual, partnership, committee, association, corporation, and any other organization or group of persons.
- “Person” defined. “(2) The term ‘contribution’ includes a gift, subscription, loan, advance, or deposit of money, or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make a contribution.
- “Contribution” defined. “(c) It is further declared to be a pernicious political activity, and it shall hereafter be unlawful for any person, individual, partnership, committee, association, corporation, and any other organization or group of persons to purchase or buy any goods, com-
- Certain purchases of goods, advertising, etc., declared unlawful.

modities, advertising, or articles of any kind or description where the proceeds of such a purchase, or any portion thereof, shall directly or indirectly inure to the benefit of or for any candidate for an elective Federal office (including the offices of President of the United States, and Presidential and Vice Presidential electors) or any political committee or other political organization engaged in furthering, advancing, or advocating the nomination or election of any candidate for any such office or the success of any national political party: *Provided*, That nothing in this sentence shall be construed to interfere with the usual and known business, trade, or profession of any candidate.

“(d) Any person who engages in a pernicious political activity in violation of any provision of this section, shall upon conviction thereof be fined not more than \$5,000 or imprisoned for not more than five years. In all cases of violations of this section by a partnership, committee, association, corporation, or other organization or group of persons, the officers, directors, or managing heads thereof who knowingly and willfully participate in such violation, shall be subject to punishment as herein provided.

“(e) Nothing in this section shall be construed to permit the making of any contribution which is prohibited by any provision of law in force on the date this section takes effect. Nothing in this Act shall be construed to alter or amend any provisions of the Federal Corrupt Practices Act of 1925, or any amendments thereto.

“SEC. 14. For the purposes of this Act, persons employed in the government of the District of Columbia shall be deemed to be employed in the executive branch of the Government of the United States, except that for the purposes of the second sentence of section 9 (a) the Commissioners and the Recorder of Deeds of the District of Columbia shall not be deemed to be officers or employees.

“SEC. 15. The provisions of this Act which prohibit persons to whom such provisions apply from taking any active part in political management or in political campaigns shall be deemed to prohibit the same activities on the part of such persons as the United States Civil Service Commission has heretofore determined are at the time this section takes effect prohibited on the part of employees in the classified civil service of the United States by the provisions of the civil-service rules prohibiting such employees from taking any active part in political management or in political campaigns.

“SEC. 16. Whenever the United States Civil Service Commission determines that, by reason of special or unusual circumstances which exist in any municipality or other political subdivision, in the immediate vicinity of the National Capital in the States of Maryland and Virginia or in municipalities the majority of whose voters are employed by the Government of the United States, it is in the domestic interest of persons to whom the provisions of this Act are applicable, and who reside in such municipality or political subdivision, to permit such persons to take an active part in political management or in political campaigns involving such municipality or political subdivision, the Commission is authorized to promulgate regulations permitting such persons to take an active part in such political management and political campaigns to the extent the Commission deems to be in the domestic interest of such persons.

“SEC. 17. Nothing in the second sentence of section 12 (a) of this Act shall be construed to prevent or prohibit any officer or employee of a State or local agency (as defined in section 12 (f)) from continuing, until the election in connection with which he was nominated, to be a bona fide candidate for election to any public office and from

Proviso.
Noninterference
with candidate's busi-
ness, etc.

Penalty.

Violations by part-
nerships, etc.

Contributions pro-
hibited by prior laws.

Corrupt practices.
43 Stat. 1070.
2 U. S. C. §§ 241-
256.

District of Colum-
bia employees.

Exception.

Taking active part
in political manage-
ment, etc., activities
prohibited.

Certain residents of
municipalities in im-
mediate vicinity of
D. C., etc.
Political activities.

Regulations.

Certain State, etc.,
nominees for public
office, political activi-
ties permitted.

Conditions.

engaging in any political activity in furtherance of his candidacy for such public office, if (1) he was nominated before the date of the enactment of this Act, and (2) upon his election to such public office he resigns from the office or employment in which he was employed prior to his election, in a State or local agency (as defined in section 12 (f)).

Political activities in connection with designated elections, etc., not prohibited.
53 Stat. 1148.
18 U. S. C., Supp. V, § 61h (a).
Ante, p. 767.

“SEC. 18. Nothing in the second sentence of section 9 (a) or in the second sentence of section 12 (a) of this Act shall be construed to prevent or prohibit any person subject to the provisions of this Act from engaging in any political activity (1) in connection with any election and the preceding campaign if none of the candidates is to be nominated or elected at such election as representing a party any of whose candidates for presidential elector received votes in the last preceding election at which presidential electors were selected, or (2) in connection with any question which is not specifically identified with any National or State political party. For the purposes of this section, questions relating to constitutional amendments, referendums, approval of municipal ordinances, and others of a similar character, shall not be deemed to be specifically identified with any National or State political party.

“State” defined.

“SEC. 19. As used in this Act, the term ‘State’ means any State, Territory, or possession of the United States.”

Prohibition on contributions by persons or firms having U. S. contracts.

SEC. 5. (a) No person or firm entering into any contract with the United States or any department or agency thereof, either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof, or selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, shall, during the period of negotiation for, or performance under such contract or furnishing of material, supplies, equipment, land, or buildings, directly, or indirectly, make any contribution of money or any other thing of value, or promise expressly or impliedly to make any such contribution, to any political party, committee, or candidate for public office or to any person for any political purpose or use; nor shall any person knowingly solicit any such contribution from any such person or firm, for any such purpose during any such period. Any person who violates the provisions of this section shall, upon conviction thereof, be fined not more than \$5,000 or imprisoned not more than five years.

Penalty.

(b) Nothing in this section shall be construed to permit any action which is prohibited by any provision of law in force on the date this section takes effect.

Prohibited actions; construing of section.

SEC. 6. Such Act of August 2, 1939, is further amended by adding at the end thereof the following new section:

53 Stat. 1147.
18 U. S. C., Supp. V, §§ 61-61k.

Limitation on receipts and expenditures of political committees.

“SEC. 20. No political committee shall receive contributions aggregating more than \$3,000,000, or make expenditures aggregating more than \$3,000,000, during any calendar year. For the purposes of this section, any contributions received and any expenditures made on behalf of any political committee with the knowledge and consent of the chairman or treasurer of such committee shall be deemed to be received or made by such committee. Any violation of this section by any political committee shall be deemed also to be a violation of this section by the chairman and the treasurer of such committee and by any other person responsible for such violation. Terms used in this section shall have the meaning assigned to them in section 302 of the Federal Corrupt Practices Act, 1925, and the penalties provided in such Act shall apply to violations of this section.”

Violations.

Meaning of terms used; penalties.

43 Stat. 1070.
2 U. S. C. § 241.

Approved, July 19, 1940.