

STATE OF TENNESSEE
OFFICE OF THE
ATTORNEY GENERAL
PO BOX 20207
NASHVILLE, TENNESSEE 37202

October 16, 2009

Opinion No. 09-167

Deputy Sheriff Running For Sheriff

QUESTION

Whether a deputy sheriff may run for the office of sheriff without violating any state or federal law.

OPINION

If the deputy sheriff's position or duties are in connection with an activity financed in whole or in part by federal loans or grants, then the federal Hatch Act would prohibit him from running for the office of sheriff unless he first resigned from employment as a deputy sheriff. Additionally, a deputy sheriff in a county that has adopted the County Sheriff's Civil Service Law of 1974 is prohibited from making any public endorsement of any candidate in any campaign for elected office. A deputy sheriff's announcement of his or her candidacy for the office of sheriff would constitute an endorsement of that candidacy. Accordingly, the deputy sheriff would be in violation of Tenn. Code Ann. § 8-8-419 unless he or she first resigned from employment.

ANALYSIS

You have asked whether an individual employed as a deputy sheriff may continue to hold that position while also seeking election in a county primary as a party's nominee for the office of sheriff without violating state or federal law. This Office has previously opined that, if a state or local employee's position or duties are in connection with an activity financed in whole or in part by federal loans or grants, then the federal Hatch Act would prohibit that employee from running for the office of sheriff unless he or she first resigned from employment. *See Op. Tenn.*

Att’y Gen. 08-146 (September 10, 2008) (copy attached). A deputy sheriff is a local employee and, therefore, if his position or duties are in connection with an activity financed in whole or in part by federal loans or grants, he would be subject to the provisions of the federal Hatch Act.

Additionally, for those counties that have adopted the “County Sheriff’s Civil Service Law of 1974,” Tenn. Code Ann. § 8-8-419 provides as follows:

- (a) No person holding a position in the classified service shall take an active part in any political campaign while on duty, nor under any circumstances shall any employee of the sheriff’s department solicit money for political campaigns. A deputy sheriff shall not use such position to reflect the deputy sheriff’s personal political feelings as those of the sheriff’s department or to exert any pressure on anyone to influence that person’s political views. No employee while on duty, nor any officer while in uniform, shall display any political advertising or paraphernalia on such person’s body or automobile. No employee of the sheriff’s office shall make any public endorsement of any candidate in any campaign for elected office.
- (b) However, nothing in this part shall be construed to prohibit or prevent any such employee from becoming or continuing to be a member of a political club or organization and enjoying all the rights and privileges of such membership or from attending any political meetings, while not on duty. Such employee shall not be denied freedom in the casting of a vote.
- (c) Any person violating the provisions of this section shall be dismissed from the service of the office of the sheriff.

“Classified service” is defined as all positions and employees in the sheriff’s department, except for the sheriff, the sheriff’s personal secretary, and the cook for the jail facility, and, in some counties, the chief deputy sheriff. Tenn. Code Ann. § 8-8-403.

A regular deputy sheriff subject to the County Sheriff’s Civil Service Law of 1974 is thus prohibited from soliciting money for political campaigns or making any public endorsement of any candidate in any campaign for elected office. A deputy sheriff’s announcement of his or her candidacy for the office of sheriff would constitute an endorsement of that candidacy. Accordingly, such deputy sheriff would be in violation of Tenn. Code Ann. § 8-8-419 unless he or she first resigned from employment.

ROBERT E. COOPER, JR.
Attorney General and Reporter

MICHAEL E. MOORE
Solicitor General

JANET M. KLEINFELTER
Deputy Attorney General

Requested by:

The Honorable Michael Harrison
State Representative
206-A War Memorial Building
Nashville, TN 37243-0109