

## Feds asked to rule on Gish candidacy

Can deputy judge run for top spot while in office?

BY ANDREA UHDE • AUHDE@COURIER-JOURNAL.COM • MARCH 10, 2010

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Deputy Judge-Executive Paula Gish is waiting for a federal agency to tell her whether she can run for judge-executive while working as a county employee.

Gish and Judge-Executive Duane Murner said they believe she is allowed to keep her job and run for office, but Murner said he's seeking the opinion of the U.S. Office of Special Counsel for confirmation.

At issue is the Hatch Act, a federal law created in 1939 that sets rules outlining which government employees can run for a partisan elected office. The Hatch Act includes several criteria used to determine if employees are prohibited from running, including whether the employee supervises programs funded by federal **money**.

Murner said Gish is not affected by the act because she doesn't meet all of the criteria; specifically, she doesn't oversee programs involving federal funds, he said.

The three county employees who report to Gish don't work with federal money, he said. And while Gish takes over for Murner when he is out of the office, she hasn't done that since she filed for office and wouldn't be able to work with federal money if the law doesn't allow it while she's a candidate.

Gish, a **Republican** , is running against Republican Magistrate David Voegele in the May primary.

Murner announced in July that he will not run for a second term.

Murner said they learned about the Hatch Act in early February when Kenton County's deputy judge-executive was told by the Office of Special Counsel that he'd have to withdraw from the race for judge-executive or resign from office. Murner said they decided to write to the Office of Special Counsel.

Murner said Gish's situation is different because she doesn't supervise **work** with federal grants and only acts in his absence for a prolonged period once a year.

Magistrate Scott Davis said he's asked his attorney to look into the issue.

He said he believes the Hatch Act impacts Gish and also staff attorney Stuart Ulferts, the only Democrat in the race for county attorney. Ulferts, whose opponents are Republicans Galen Clark and current county attorney John Fendley, could not be reached for comment.

Murner said the issue could turn into a matter of litigation and was exempt from discussion in an open meeting.

Tim Sturgill, a general counsel for the Kentucky Association of Counties, said the Hatch Act is complicated.

“You cannot make any broad statements because it really depends on that particular officer and what their functions are,” he said.

Murner said they are waiting to hear from the [Office of Special Counsel](#). He said if the issue goes to the merit board, which enforces the rules, then they would not appeal it.

If Gish is found to fall under the Hatch Act, she would step aside from her duties as deputy judge-executive, he said.

“We are going to assert vigorously our position that this act does not apply to her,” Murner said.

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