

2024 Election: What Employers Need to Know About Employee Voting Leave

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October 11, 2024

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As election day 2024 approaches, it is crucial that employers are aware of and comply with state law requirements on employee rights to voting leave. While not all states impose obligations on employers, many states do require employers to provide time off for voting, along with other requirements, and non-compliance can result in criminal or civil penalties. Employers are encouraged to review their voting leave practices and policies annually as there are constant developments in this area. One example is the District of Columbia's newly revised law described below.

Understanding State-Specific Obligations

Employer obligations vary significantly by state. Some states mandate paid time off for voting, including early voting or absentee ballot submission. Others allow this time to be unpaid. The specifics can differ widely, including:

- **Amount of Time:** The required amount of time off can vary. Some states specify a set number of hours, while others require "sufficient" time to vote.
- **Work Hours Consideration:** In some states, if employees have sufficient time to vote outside of work hours, employers may not be obligated to provide additional time off.
- **Scheduling:** Employers may have the right to dictate when the time off is taken, such as at the beginning or end of the workday.
- **Notice and Posting Requirements:** Certain jurisdictions require employers to post notices informing employees of their voting leave rights.
- **Election Officials and Elected Office:** Some states also require employers to provide time off for employees serving as election officials or in elected positions.

Further, application of these to expanded early voting often is not clear.

Best Practices for Employers

To ensure compliance and support employee participation in the election, employers should:

1. **Review Policies and Practices:** Regularly review practices and update any relevant policies that may exist to ensure they align with current laws and be prepared to address employee requests for time off well before election day.
2. **Consider Remote Employees:** With the rise of remote work, employers may have more flexibility in meeting voting leave obligations. However, it is important to understand how state laws apply to remote employees.
3. **Address Posting Requirements:** Ensure that any required notices about voting leave rights are posted in accordance with state laws. This may include digital postings for remote employees.
4. **Promote Employee Morale:** Supporting employees' right to vote can positively impact morale. Consider creating a culture that encourages voting and ensures compliance with all relevant policies.

By staying informed and proactive, employers can navigate the complexities of voting leave requirements and support their employees' civic engagement during the 2024 election.

Following is a sampling of state law requirements for employee voting time off.



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Arizona – Arizona Revised Statute § 16-402 provides that eligible voters who do not have 3 consecutive hours between the opening of polls and the beginning of their regular work shift or between the end of their work shift and the closing of polls must be allowed to take enough time at the beginning or end of their shift that will allow for a total of 3 consecutive non-work hours to vote while polls are open.

Notice, Hours

- **Notice:** The employee must make a request prior to voting day.
- **Hours:** The employer may specify the hours of absence.

Paid?

Paid: Employers cannot reduce employees' pay for voting time leave.

California – Pursuant to California Election Code § 14000, employees are entitled to an amount of time off to vote that, when added to the voting time otherwise available to the employee outside of working hours, will enable the employee to vote. An employee with sufficient non-working time to vote is not entitled to additional time off to vote.

Notice, Hours, Posting

- **Notice:** Two working days' advance notice prior to the election is required if, on the third working day prior to the election, the employee knows or has reason to believe they will need time off to vote.
- **Hours:** Time may be taken only at the beginning or end of the work shift, whichever allows the greatest amount of free time for voting and least time off from work, unless otherwise mutually agreed.
- **Posting Requirement:** Employers must post a notice of voting time requirements at least 10 days before an election. Employers can satisfy this requirement by posting a copy of the "Time Off to Vote" notice.

Paid?

Paid: No more than 2 hours of the time taken off for voting may be without loss of pay.

Colorado – Colorado Revised Statute §1-7-102 provides that eligible voters are entitled to be absent from work for up to 2 hours for the purpose of voting on election day, unless the employee has at least 3 non-working hours to vote while the polls are open.

Notice, Hours

- **Notice:** The employee must apply for leave prior to election day.
- **Hours:** The employer may specify the hours of absence, but the hours must be at the beginning or end of the work shift, if the employee so requests.

Paid?

Paid: No more than 2 hours.

District of Columbia – Under D.C. Official Code § 1-1001.07a, eligible voters are allowed at least 2 hours of paid leave to vote in person or, if the employee is not eligible to vote in the District, in any election run by the jurisdiction in which the employee is eligible to vote.

Notice, Hours, Posting

- **Notice:** Employers may require employees to give reasonable notice of intent to vote. The regulations define reasonable as either (1) a request consistent with an existing employee leave policy, or (2) if there is no leave policy, no later than 7 days before the time requested to vote.
- **Hours:** Employers may specify the hours during which the employee may take the leave, including requiring that the employee take the leave either during a period designated for early voting instead of on the day of the election or at the beginning or end of their working hours.
- **Posting Requirement:** For 60 days prior to and until all scheduled elections, including special elections, employers must post and maintain a notice, developed by the DC Board of Elections in consultation with the Office of Human Rights' Language Access Program, in a conspicuous place and accessible place where employees work. Employers may download the notice from the Board's website or request the notice by sending an email to communications@dcboe.org. For remote workers, or if no conspicuous and accessible place exists for posting, employers must provide the notice to individual employees, provided that the employee signs an acknowledgement of receiving the notice.

Paid?

Paid: Upon the employee's request, an employer must provide the employee at least 2 hours of paid leave to vote in person, provided that the employee would have been scheduled to work during the time for which the leave is requested.

Illinois – Under Illinois Statute 10 ILCS 5/17-15, an eligible voter is allowed time off for a period of up to 2 hours between the time of opening and closing of the polls.

Notice, Hours

- **Notice:** Employees must provide notice prior to election day.
- **Hours:** Employers may specify the hours during which the employee may be absent, except that the employer must permit a 2-hour absence during working hours if the employee's working hours begin less than 2 hours after opening of the polls and end less than 2 hours before closing of the polls.

Paid?

Paid: Employers cannot reduce employees' pay for voting time leave.

Iowa – Under Iowa Code § 49.109, eligible voters are allowed 2 voting hours when polls are open, unless employee has 2 consecutive nonworking hours when polls are open to vote.

Notice, Hours

- *Notice:* Employees must make a written application to vote before voting day.
- *Hours:* The employer may designate the period of time to be taken.

Paid?

Paid: If taken during work hours.

Kentucky – Pursuant to Kentucky Revised Statute § 118.035, eligible voters are allowed reasonable time to vote, but not less than 4 hours while polls are open. Employees are also allowed up to 4 hours' absence on the day of appearing before the county clerk, during business hours, to request an application or execute an absentee ballot. Employer may specify hours during which an employee may absent themselves.

Notice, Hours

- *Notice:* The employee must apply for leave prior to voting days.
- *Hours:* The employer may specify the hours of absence.

Paid?

No requirement to provide paid time off.

Missouri – Under Mo. Rev. Stat. §115.639, eligible voters are entitled to 3 hours to vote, unless polls are open during 3 successive nonworking hours.

Notice, Hours

- *Notice:* Employees must make an application to vote before voting day.
- *Hours:* Employer may specify any 3 hours between time of opening and time of closing of the polls during which an employee may be absent.

Paid?

Paid: If vote is cast.

Nebraska – Under Neb. Rev. Stat. § 32-922 eligible voters are allowed up to 2 hours to participate in all elections, unless polls open 2 consecutive hours before or after work, then the employee is allowed enough time off, when added to free time, to equal 2 consecutive hours.

Notice, Hours

- *Notice:* Employees must apply for leave of absence to vote to the employer or person authorized to grant such leave prior to the day of the election.
- *Hours:* Employers may specify the hours during which the employee may be absent.

Paid?

Paid: If application is made on or before election day.

Nevada – Under Nev. Rev. Stat. §293.463, eligible voters are allowed “sufficient time” to vote, unless “sufficient time” exists during nonworking hours. Employees must be granted 1 to 3 hours to vote, depending on distance to the polls, as follows: 1 hour, if the distance between the voter’s place of employment and polling place is 2 miles or less; 2 hours, if the distance is from 2 to 10 miles; and 3 hours, if the distance is more than 10 miles.

Notice, Hours

- *Notice:* Employees must apply for leave of absence to vote to the employer or person authorized to grant such leave prior to the day of the election.
- *Hours:* Employers may specify the hours during which the employee may be absent.

Paid?

Paid: Employers cannot reduce pay because the employee takes voting time leave.

New York – New York Election Law § 3-110 states that a registered voter who does not have 4 consecutive non-working hours to vote while the polls are open may take off so much working time as will enable the person to vote at any election without loss of pay for up to 2 hours.

Notice, Hours, Posting

- *Notice:* The employee must provide notice of leave at least 2 working days prior to the election.
- *Hours:* The employer may specify the hours. Leave must be given at the beginning or end of the work shift, as the employer may designate, unless otherwise agreed.
- *Posting Requirement:* Employers must also conspicuously post [a notice](#) for employees about the law not less than 10 working days before every election. The notice must be kept posted until the close of the polls on election day.

Paid?

Paid: Not more than 2 hours may be without loss of pay.

Tennessee – Under Tennessee Code § 2-1-106, an eligible voter must be allowed reasonable time of up to 3 hours to vote, unless polls in the county where the employee is a resident are open for 3 hours before work or open for 3 hours after work.

Notice, Hours

- *Notice:* Employees must apply for voting leave before noon the day before the election.
- *Hours:* Employers may specify the hours during which the employee may be absent.

Paid?

Paid: Employers cannot reduce pay because the employee takes voting time leave.

Additionally, it is important for employers to check local laws (albeit limited) to ensure compliance with voting leave rights. Our team of attorneys at Jackson Lewis is available to assist with any inquiries regarding state and local regulations, and best practices, and to help ensure your organization remains compliant.

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