

## Employer Obligations Relating to Employee Voting

As Election Day (November 3, 2020) nears, it is important for employers to be aware of their legal obligations relating to their employees' right to vote. Below is a chart showing key provisions of the laws of the 50 states and Puerto Rico as applied to employee voting. As you will see, some states have no laws, while other states actually require employers to pay their employees for time they need to vote.

We have not attempted to incorporate every law relating to voting, nor have we included the various penalties employers face for violating those laws. The intent of the chart is to alert employers regarding the following key issues so that they can comply with the law:

1. Are employees entitled to time off to vote?
2. If so, how many hours may an employee take and are there limitations on when they can take them?
3. Must the time off be paid by the employer?
4. What notice must employees give to their employer?
5. What notice must employers give to their employees?

The standards set forth in the chart below generally only apply to employees who are eligible to vote. In addition to the foregoing issues, employers are generally prohibited from retaliating or discriminating against employees as a result of their vote or taking time off to vote. In many states, this includes, for example, putting employee paychecks in envelopes that contain political information.

### Election Day is Tuesday, November 3, 2020.

In California, at least 10 days before the election, or by Saturday, October 24, 2020, employers must post a notice of voting time requirements. Employers can satisfy their notice-posting requirement by posting a copy of "Time Off to Vote," a poster available from the California Office of the Secretary of State. Cal. Elec. Code §§ 14000 to 14002.

In New York, employers must post a notice of the voting leave provisions at least 10 workdays before every election and keep it posted until the polls close on Election Day. The notice must be conspicuously posted at the workplace where it can be seen by employees as they come or go to work. N.Y. Elect. Law § 3-110



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#### Related Practice Areas

- Labor & Employment

| <i>State</i> | <i>Must employees be allowed time off to vote?</i> | <i>How much time is required?</i>   | <i>Is it paid time off?</i> |
|--------------|--|---|-----------------------------|
|              | Yes, for employers with 25 or more employees       | One hour. Employees must give reasonable notice of their need for voting leave. | No                          |

| State      | Must employees be allowed time off to vote?   | How much time is required?  | Is it paid time off? |
|------------|---|---|----------------------|
| Alabama    | <p><b>Exclusions and other Important Provisions</b><br/>           Leave is not required if an employee's work hours start two hours or more after the polls open, or an employee's work hours end at least one hour before the polls close. Leave is also required for employees who are precinct election officials. Employers are prohibited from otherwise assisting employees with voting.</p>   |   |                      |
| Alaska     | Yes   | Not specified   | Yes                  |
|            | <p><b>Exclusions and other Important Provisions</b><br/>           Leave is not required if the employee has two consecutive hours to vote between the opening of the polls and the start of their regular work shift or between the end of their regular work shift and the closing of the polls.</p>  |   |                      |
| Arizona    | Yes   | An amount of leave that provides three consecutive hours to vote from the time the polls open until their shift starts or from the time their shift ends until the polls close. Employees must request leave before election day. | Yes                  |
|            | <p><b>Exclusions and other Important Provisions</b><br/>           Leave is not required if the employee has three or more consecutive hours between the opening of the polls and the start of their regular work shift or between the end of their regular work shift and the closing of the polls. Within 90 days of an election, employers are prohibited from put up notices favoring one ticket or candidate which suggest that employees may suffer depending on the results.</p> |   |                      |
| Arkansas   | Yes   | Employers must schedule employees' work hours on election days so that they have an opportunity to vote.  | No                   |
| California | Yes   | Sufficient time. Employers can require employees to notify the company two working days in advance of the need for leave.   | Yes, up to two hours |
|            | <p><b>Exclusions and other Important Provisions</b><br/>           No</p>   |   |                      |
| Colorado   | Yes   | Two hours. Employees must notify the company of the need for leave before election day.   | Yes, up to two hours |
|            | <p><b>Exclusions and other Important Provisions</b><br/>           Leave is not required if an employee otherwise has adequate time to vote.</p>  |   |                      |

| State                | Must employees be allowed time off to vote?   | How much time is required?   | Is it paid time off?                                 |
|----------------------|---|--|--|
| Connecticut          | No  |  |  |
|                      | <p><b>Exclusions and other Important Provisions</b><br/>           There are broad protections for employees who need time off because they are elected officials. Employers cannot try to influence an employee's choice within 60 days of an election by threats or with promises.</p>  |  |  |
| Delaware             | No  |  |  |
|                      | <p><b>Exclusions and other Important Provisions</b><br/>           Employees who are not in critical need positions are entitled to time off to serve as election officers on election day.</p>   |  |  |
| District of Columbia | Yes   | 2 hours  | Yes  |
|                      | <p><b>Exclusions and other Important Provisions</b><br/>           Employers may require employees to submit requests for paid leave to vote a reasonable time in advance of the date an employee wishes to vote; and may specify the hours during which the employee may take paid leave to vote, including requiring an employee to: vote during the early voting period instead of on Election Day; or vote at the beginning or end of a working shift, whether during early voting or on Election Day. Employers must post a notice that is available <a href="#">here</a>.</p> |  |  |
| Florida              | No  |  |  |
| Georgia              | Yes   | Up to two hours. Employees must give their employer reasonable notice of their need for leave. | No   |
|                      | <p><b>Exclusions and other Important Provisions</b><br/>           No leave is required if an employee has at least two hours before beginning work or after leaving work during which the polls are open.</p>  |  |  |
| Hawaii               | Yes   | Up to two hours  | Yes, but the employee must provide a voting receipt. |
|                      | <p><b>Exclusions and other Important Provisions</b><br/>           No leave is required if an employee has two consecutive hours (excluding lunch or rest periods) of non-working time while the polls are open. Employers cannot assist their employees to vote.</p>   |  |  |
| Idaho                | No  |  |  |
|                      |   |  |  |

| State     | Must employees be allowed time off to vote?  | How much time is required?   | Is it paid time off? |
|-----------|--|--|----------------------|
| Illinois  | Yes  | Up to two hours. Employees must notify their employer of the need for leave before election day.     | Yes                  |
|           | <p><b>Exclusions and other Important Provisions</b><br/>           No leave required if an employee has two consecutive hours of non-working time while the polls are open. Time off is also required to serve as election judges (20 days' notice is required).</p> |  |                      |
| Iowa      | Yes  | Three consecutive hours  | Yes                  |
|           | <p><b>Exclusions and other Important Provisions</b><br/>           No leave required if an employee has three consecutive hours of non-working time while the polls are open.</p>  |  |                      |
| Kansas    | Yes  | Two consecutive hours (employers can designate the hours, which cannot include a lunch period)       | Yes                  |
|           | <p><b>Exclusions and other Important Provisions</b><br/>           No</p>  |  |                      |
| Kentucky  | Yes  | Reasonable amount of time, but no more than four hours between the opening and closing of the polls. | No                   |
|           | <p><b>Exclusions and other Important Provisions</b><br/>           No</p>  |  |                      |
| Louisiana | No   |  |                      |
| Maine     | No   |  |                      |
| Maryland  | Yes  | Two hours  | Yes                  |
|           | <p><b>Exclusions and other Important Provisions</b><br/>           No leave required if an employee has two continuous off-duty hours while the polls are open.</p>  |  |                      |

| State  | Must employees be allowed time off to vote?   | How much time is required?   | Is it paid time off? |
|--|---|--|----------------------|
| Massachusetts  | Yes, but only certain employers (manufacturing, mechanical, or mercantile establishments) | The first two hours after the opening of the polls. Employees must request voting time leave.  | No                   |
| Michigan   | No  |  |                      |
| Minnesota  | Yes   | Sufficient time to visit their polling place, cast a ballot and return to work on election day   | Yes                  |
| <b>Exclusions and other Important Provisions</b>   |   |  |                      |
| Time off also required to serve as election judges (with 20 days' notice).   |   |  |                      |
| Mississippi  | No  |  |                      |
| Missouri   | Yes   | Up to three hours. Employees must actually use the time to vote.   | Yes                  |
| <b>Exclusions and other Important Provisions</b>   |   |  |                      |
| No leave is required if an employee has three successive hours of non-working time while the polls are open.         |   |  |                      |
| Montana  | No  |  |                      |
| Nebraska   | Yes   | Two hours  | Yes                  |
| <b>Exclusions and other Important Provisions</b>   |   |  |                      |
| No leave is required if the employee has at least two successive hours of non-working time while the polls are open. |   |  |                      |
| Nevada   | Yes   | <b>One hour</b> (if the distance between the voter's employment and polling place is less than two miles); <b>two hours</b> (if the distance is between two miles and ten miles); or <b>three hours</b> (if the distance is more than ten miles). Employees must apply for voting leave before election day. | Yes                  |

| State          | Must employees be allowed time off to vote?   | How much time is required?   | Is it paid time off?                           |
|----------------|---|--|--|
|                | <b>Exclusions and other Important Provisions</b><br>No  |  |  |
| New Hampshire  | No  |  |  |
| New Jersey     | No  |  |  |
| New Mexico     | Yes   | Two hours  | Yes  |
|                | <b>Exclusions and other Important Provisions</b><br>No leave is required if the employee's shift begins more than two hours after the polls open or ends more than three hours before the polls close.  |  |  |
| New York       | Yes   | Two hours  | Yes  |
|                | <b>Exclusions and other Important Provisions</b><br>No leave required if an employee has four consecutive hours to vote either from the opening of the polls to the beginning of their work shift, or four consecutive hours between the end of a working shift and the closing of the polls. |  |  |
| North Carolina | No  |  |  |
| North Dakota   | No  |  |  |
| Ohio           | Yes   | Reasonable amount of time  | Only for salaried employees                    |
|                | <b>Exclusions and other Important Provisions</b><br>No  |  |  |
| Oklahoma       | Yes   | Two hours, but more time if the employee's distance from the voting place requires more than two hours | Yes, but employee must provide proof of voting |
|                | <b>Exclusions and other Important Provisions</b><br>No leave required if the employee's shift begins or ends at least three hours before or after the polls open or close   |  |  |
| Oregon         | No  |  |  |

| State          | Must employees be allowed time off to vote?  | How much time is required?   | Is it paid time off? |
|----------------|--|--|----------------------|
| Pennsylvania   | No   |  |                      |
|                | <p><b>Exclusions and other Important Provisions</b><br/>           Within 90 days of a primary or election, employers cannot post notices containing implied threats or promises meant to influence an election.</p> |  |                      |
| Puerto Rico    | Yes  | Two hours  | Yes                  |
|                | <p><b>Exclusions and other Important Provisions</b><br/>           No leave required if employees aren't able to vote in advance of election day.</p>  |  |                      |
| Rhode Island   | No   |  |                      |
|                |  |  |                      |
| South Carolina | No   |  |                      |
|                |  |  |                      |
| South Dakota   | Yes  | Two hours  | Yes                  |
|                | <p><b>Exclusions and other Important Provisions</b><br/>           No leave required if an employee has two consecutive non-working hours during which the polls are open.</p>                                       |  |                      |
| Tennessee      | Yes  | Three hours. Employees must apply for leave by noon the day before election day. | Yes                  |
|                | <p><b>Exclusions and other Important Provisions</b><br/>           No leave required if an employee has three or more hours of non-work time in which to vote.</p>   |  |                      |
| Texas          | Yes  | Unspecified  | Yes                  |
|                | <p><b>Exclusions and other Important Provisions</b><br/>           No leave required if the polls are open on Election Day for two consecutive hours outside of an employee's working hours</p>                      |  |                      |
| Utah           | Yes  | Two hours  | Yes                  |
|                | <p><b>Exclusions and other Important Provisions</b><br/>           No leave required if the employee has a period of three or more non-working hours while the polls are open.</p>                                   |  |                      |
| Vermont        | No   |  |                      |
|                |  |  |                      |

| <b>State</b>   | <b>Must employees be allowed time off to vote?</b> | <b>How much time is required?</b>   | <b>Is it paid time off?</b>  |
|--|--|---|--|
| Virginia   | No   |   |  |
| Washington   | Yes  | Two hours   | Yes  |
| <b>Exclusions and other Important Provisions</b><br>No leave required if, during the period between the time an employee is informed of his or her work schedule for a primary or an election and the date of the primary or election, there is sufficient time for an absentee ballot to be secured for that primary or election. |  |   |  |
| West Virginia  | Yes  | Three hours. Employees must notify their employer at least three days before election day.      | Yes, but not if an employee has three or more hours of free time away from work while the polls are open and fails to vote during that time. |
| <b>Exclusions and other Important Provisions</b><br>No   |  |   |  |
| Wisconsin  | Yes  | Three hours. Employees must notify their employer of the need for time off before election day. | No   |
| <b>Exclusions and other Important Provisions</b><br>No   |  |   |  |
| Wyoming  | Yes  | One hour  | Yes  |
| <b>Exclusions and other Important Provisions</b><br>No leave required if employees have three consecutive non-work hours to vote.  |  |   |  |

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If you have a question about the application of a specific state law, you should follow up with your legal counsel.