

COMPLIANCE OVERVIEW

Provided by The Insurance Exchange

Election Day 2016 – Employee Leave for Voting

As the 2016 U.S. presidential election draws near, employers should be prepared to handle requests from employees for time off from work to vote on Election Day, which is **Nov. 8, 2016**.

Federal law does not require employers to provide their employees with time off to vote. However, many states have voting leave laws that allow employees to take time off to vote in certain circumstances. The specifics vary by state, but many of these voting leave laws:

- ✓ Require the leave to be paid;
- ✓ Impose a notice requirement on employees; and
- ✓ Allow employers to designate the hours during which employees may be absent to vote.

Employers should be aware of the voting leave laws that apply to them and be prepared to comply with any applicable requirements.

HIGHLIGHTS

STATE VOTING LEAVE LAWS

- Most states have laws requiring employers to provide time off from work to vote.
- Time off from work to vote must be paid in many states.
- In many states, employees who have sufficient time to vote during their non-working hours are not eligible for leave.

NOTICE REQUIREMENTS

- Some state laws require employees to provide their employers with notice of the leave.
- Employers in New York and California must post a notice regarding voting leave laws.

VOTING RESOURCES

- [Voting and Elections in the United States](#) – Find answers to common questions about voting in the United States
- [U.S. Election Assistance Commission](#)

This Compliance Overview is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice.



STATE-BY-STATE VOTING LAWS

State	Leave Requirements
Alabama	Employees may take up to one hour of leave to vote in any municipal, county, state, or federal primary or general election. However, if an employee's work schedule begins at least two hours after the polls open, or ends at least one hour prior to the polls closing, the employee is not eligible for voting leave. Employees must provide reasonable notice to their employers if they require time off to vote. The employer may specify the hours of leave. <i>Ala. Code 1975 § 17-1-5</i>
Alaska	Employers must provide employees with paid leave to vote on an election day, unless the employee has two consecutive hours of non-working time, either between the opening of the polls and the start of his or her shift, or between the close of the polls and the end of his or her shift. <i>AS § 15.15.100; AS § 15.56.100</i>
Arizona	Employers must provide employees with paid leave to vote in a primary or general election, unless they have at least three hours before or after work to do so. Employers must provide an amount of leave that would give employees three consecutive hours (including non-working time) to vote at the polls. Employees must apply for leave prior to election day. Employers may designate the hours that employees may be absent. <i>A.R.S § 16-402</i>
Arkansas	Employers must schedule employee work hours on election day in a way that will allow employees the opportunity to vote. <i>A.C.A. § 7-1-102</i>
California	<p>Employers must provide employees who do not have sufficient time outside of working hours to vote on an election day with leave for voting purposes. An eligible employee is entitled to take as much time off as necessary to vote. However, employers are only required to pay the employee for up to two hours of missed work time for voting leave. In addition, unless the employer and employee agree otherwise, an employee may only take leave at the beginning or end of his or her regular working shift (whichever allows the most free time for voting and the least time off from his or her regular working shift).</p> <p>If, on the third working day before an election, the employee knows or has reason to believe that he or she will need time off to vote, the employee must give the employer at least two working days' notice of his or her intent to take leave.</p> <p>Employers must post a notice informing employees of their voting leave rights at least 10 days before every statewide election. The notice must be posted conspicuously at the workplace or where it can be seen as employees come or go to their place of work. The California Secretary of State's office has provided sample notices in both English and Spanish. <i>Cal. Elec. Code § 14000; Cal. Elec. Code</i></p>

§ 14001

Colorado

Employers must provide employees with **up to two hours of paid leave** to vote in any primary or general election. An employer is not required to grant voting leave to any employee who has three or more hours off from work while the polls are open. Employees must apply for leave prior to election day. The employer may specify the hours during which the employee may be absent. However, if the employee requests that the time away from work be at the beginning or end of the work shift, the employer must grant this request. *Colo. Rev. Stat. § 1-7-102*

Connecticut

No specific law requiring time off to vote

Delaware

No specific law requiring time off to vote

District of Columbia

No specific law requiring time off to vote

Florida

No specific law requiring time off to vote

Georgia

Employers must provide employees with **up to two hours of time off** to vote in any municipal, county, state, or federal political party primary or election. However, leave is not available if the employee's work hours begin at least two hours after the polls open or end at least two hours before the polls close. Employees must provide the employer with reasonable notice of the absence. Employers may specify the hours during which the employee may absent. *GA ST § 21-2-404*

Hawaii

Employers must provide employees with **up to two hours (excluding meals and breaks) of paid leave** to vote. An employee is not eligible for voting leave if he or she has two consecutive non-working hours (excluding meals and breaks) in which to vote. *HRS § 11-95*

Idaho

No specific law requiring time off to vote

Illinois

Employers must provide employees with **up to two hours of paid leave** to vote in a general or special election or an election where propositions are submitted for a vote. The employer may specify the hours during which the employee may take leave to vote. To qualify for two hours of voting leave, the employee's working hours must begin less than two hours after the polls open and end less than two hours before the polls close. An employee must apply for the leave with the employer prior to the day of the election. *IL ST CH 10 § 5/17-15*

Indiana

No specific law requiring time off to vote

<p>Iowa</p>	<p>An employer must provide paid leave to an employee to vote so that he or she will have at least three consecutive hours (including non-working time) when the polls are open to do so. Leave must be requested in writing prior to the election and employers may designate the period of leave. <i>Iowa Code § 49.109</i></p>
<p>Kansas</p>	<p>Employees must be allowed up to two consecutive hours of paid time off to vote in an election. However, if polls are open outside an employee’s working hours, the employee must only be allowed leave that provides at least two consecutive hours when added to the employee’s non-working hours. An employer may specify the hours an employee may leave work to vote, but may not designate the employee’s lunchtime for voting. <i>K.S.A § 25-418</i></p>
<p>Kentucky</p>	<p>Employees who apply for leave from work to vote prior to election day must be allowed at least four hours of leave to vote on election day. An employer may specify the hours that the employee may leave to vote. An employee may not be penalized for taking time off to vote (unless the employee fails to vote under circumstances that did not prevent him or her from voting). <i>KRS § 118.035</i></p>
<p>Louisiana</p>	<p>No specific law requiring time off to vote</p>
<p>Maine</p>	<p>No specific law requiring time off to vote</p>
<p>Maryland</p>	<p>Employers must provide employees with up to two hours of paid leave to vote. However, leave is not required for employees who have at least two consecutive hours off work when the polls are open. <i>Md. Code Ann., Elec. Law § 10-315</i></p>
<p>Massachusetts</p>	<p>All employers in the manufacturing, mechanical or mercantile industries must allow eligible employees to take leave to vote if employees request leave. An employee may request to leave work during the two hours after the polls open in the voting precinct, ward or town where the employee is entitled to vote. <i>Mass. General Laws 149, § 178</i></p>
<p>Michigan</p>	<p>No specific law requiring time off to vote</p>
<p>Minnesota</p>	<p>An employer must permit an employee to be absent from work to vote in any one of the following elections:</p> <ul style="list-style-type: none"> • A regularly scheduled election; • An election to fill a vacant U.S. Senate or House of Representatives seat; • An election to fill a vacancy in nomination for a constitutional office; or • An election to fill a vacant Minnesota Senate or House of Representatives seat. <p>An employer may not penalize an employee or deduct from salary or wages</p>

because of the absence. An employee is entitled to be absent from work for the time necessary to appear at the employee’s polling place, cast a ballot and return to work on the day of an election. *MN ST § 204C.04*

Mississippi	No specific law requiring time off to vote
Missouri	Employers must allow employees three hours of paid leave to vote on an election day, if the employees applied for leave prior to election day. Leave is not available if an employee’s work schedule provides three consecutive hours of non-working time when the polls are open. Employers may specify the hours during which employees may take leave to vote. <i>Mo. Rev. Stat. § 115.639</i>
Montana	No specific law requiring time off to vote
Nebraska	Employees must be allowed up to two consecutive hours of paid time off to vote on an election day. Employees must apply for leave in advance of election day, and the employer may specify the hours during which the employee may take leave. Employees who have at least two consecutive hours of non-work time when the polls are open to vote are not eligible for leave. In addition, allowing an employee less than two hours of leave is permissible if the time away from work combined with the employee’s non-work time is at least two consecutive hours between the opening and closing of the polls. <i>Neb. Rev. St. § 32-922</i>
Nevada	An employer must grant an employee sufficient time away from work in order to vote, if it is impracticable for the employee to vote during non-working hours. “Sufficient time” is based on the distance from the worksite to the polling location, not exceeding three hours. An employee must request leave to vote prior to the day of the election. Employers may designate the hours during which the employee may take leave to vote. Voting leave must be paid. <i>N.R.S. 293.463</i>
New Hampshire	No specific law requiring time off to vote
New Jersey	No specific law requiring time off to vote
New Mexico	Employers must allow employees up to two hours of paid leave to vote on an election day. However, voting leave is not required for an employee whose workday begins two or more hours after the polls open or ends three or more hours before the polls close. An employer may designate the hours an employee may take leave to vote. An employee who takes leave to vote may not be liable for any penalty. <i>N.M.S.A. 1978 § 1-12-42</i>
New York	An employee who does not have enough time to vote outside of his or her working hours is entitled to take as much time off from work as necessary to vote, taking into account any voting time available to the employee outside of working hours. Up to two hours of the employee’s voting leave must be paid. If the employee

requires more than two hours of leave to vote, the amount of leave granted beyond two hours may be unpaid.

An employee is deemed to have enough time to vote outside of his or her working hours if the employee has four consecutive hours between either:

- The opening of the polls and the beginning of his or her working shift; or
- The end of his or her working shift and the closing of the polls.

The employee must notify his or her employer of the need to take time off from work to vote two to 10 days in advance of an election day. An employer is required to grant leave only at the beginning or end of an employee’s work shift, and may designate when the employee takes leave.

Employers must post a notice informing employees of their right to take voting leave at least 10 days before an election day. The notice must remain posted until polls close on the election day. A sample poster is available on the New York State Board of Elections’ [website](#). N.Y. Elec. Law § 3-110

North Carolina No specific law requiring time off to vote

North Dakota Employers are encouraged to allow employees time off to vote when an employee’s work schedule conflicts with the time the polls are open. *NDCC § 16.1-01-02.1*

Ohio Employers may not discharge, or threaten to discharge, or inflict any injury, harm or loss on an employee for taking a reasonable amount of time to vote on election day. *OH ST § 3599.06*

Oklahoma Employees must be allowed **up to two hours of paid time off** to vote. However, employees must receive “sufficient time” necessary to vote if they require more than two hours of travel time. Leave is not available if the employee’s work shift begins three or more hours after the polls open or ends three or more hours before the polls close. Employers may change the work hours to allow three hours before the beginning of work or after work ends for employees to vote.

Employees must provide notice to their employers the day before the election if they require time off to vote. Employers may specify the hours during which employees may leave work to vote. *26 Okl. St. Ann. § 7-101*

Oregon No specific law requiring time off to vote

Pennsylvania No specific law requiring time off to vote

Rhode Island No specific law requiring time off to vote

South Carolina No specific law requiring time off to vote

South Dakota	An employer must provide employees with up to two hours of paid leave to vote in any primary or general election on election day. However, an employee is not eligible for voting leave if his or her work schedule allows for two consecutive hours during the time the polls are open. The employer may specify the hours an employee may take leave to vote. <i>SDCL § 12-3-5</i>
Tennessee	Employees may be absent from work for a reasonable amount of time, up to three hours , to vote, unless the polls are open for at least three consecutive hours outside of the employee’s work hours. Employees must request leave to vote before noon on the day before the election. Leave is paid if it occurs during the employee’s normal working hours. The employer may specify the hours during which the employee may be absent to vote. <i>TN Stat. § 2-1-106</i>
Texas	Employees may be absent from work for a reasonable amount of time to vote, unless the polls are open for at least two consecutive hours outside of the employee’s work hours. Voting leave is paid. <i>Tex. Elec. Code § 276.004</i>
Utah	Employers must provide employees with up to two hours of paid leave to vote on an election day, if the employee applied for leave prior to the election day. However, leave is not available to an employee whose work schedule allows for three or more hours of non-work time when the polls are open. Employers may specify the hours which the employee may leave to vote. If the employee requests the leave at the beginning or end of his or her work shift, the employer must grant that request. <i>U.C.A. 1953 § 20A-3-103</i>
Vermont	No specific law requiring time off to vote
Virginia	No specific law requiring time off to vote
Washington	No specific law requiring time off to vote
West Virginia	Employers must provide employees with up to three hours of paid leave to vote on an election day. An employee must request voting leave in writing at least three days prior to election day. However, an employee will not be eligible for voting leave if he or she has three or more hours of non-work time when the polls are open (although an employer may choose to provide the employee with unpaid time to vote). In essential government, health, hospital, transportation and communication services, and in production, manufacturing and processing works requiring continuity in operation, employers may schedule employee voting leave to avoid disrupting essential services and business operations. <i>W. Va. Code § 3-1-42</i>
Wisconsin	An employee may be absent from work for up to three consecutive hours to vote, if the employee notifies his or her employer of the intended absence before the

day of the election. The employer may designate the time of day for the absence. Employers are not required to pay employees for voting leave. However, no penalty other than a deduction for time lost may be imposed on an employee because he or she takes voting leave. *W.S.A. 6.76*

Wyoming

An employer must provide **up to one hour of paid leave** to an employee in order to vote in any primary, general or special election. The employer may designate the most convenient time for the employee to take voting leave (other than a meal hour). Employees who have three or more consecutive non-working hours during the time the polls are open are not eligible for voting leave. *W.S. 1977 § 22-2-111*