

Publications

Labor and Employment Alert: Time Off for Voting: State-by-State (2012)

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The 2012 elections are just less than a month away. Many states allow employees to take time off, sometimes with pay, so that they can vote. The chart below provides a general overview of each state's law as to time off, pay, and what, if any, advance notice is required before taking time off to vote. If you have specific questions about the law in any state, please contact your Vorys attorney.

State Paid Must Employee Give Notice Prior to Taking Leave? Can Leave be Taken During Work Time

Alabama Unspecified. Yes, reasonable notice is required. Employees may take up to one hour unless the polls are open for two hours before employee's shift or one hour after employee's shift. The employer may specify when leave may be taken.

Alaska Yes. No requirement. Employees may take as much time off as needed to vote unless the polls are open for two consecutive hours before or after employee's shift.

Arizona Yes. Yes, employees must make request prior to election day. Employee may take leave if there are less than three consecutive hours between the opening of the polls and the beginning of employee's shift or between the end of employee's shift and the closing of the polls. Time off may be taken to provide three total hours. Employer may specify when leave may be taken.

Arkansas No. No.

Employers must schedule work hours so that employees have the opportunity to vote.

California Yes, up to two hours.

Yes, at least two working days if the employee knows or has reason to know time off will be necessary to vote. Employees may take leave if they do not have "sufficient time" outside of working hours to vote. An employee may take off enough time so that when the time off is added to the voting time available outside of working hours, the employee is able to vote. Employees may take leave either at the beginning or end of their shift, whichever allows the most time to vote and the least time away from work, unless otherwise mutually agreed. The employer must conspicuously post a notice of employee rights at least ten days before election day. This notice is often included in the "all-in-one" poster.

Colorado Yes, up to two hours. Yes, employees must request prior to election day. Up to two hours unless the polls are open for three hours of non-work time. The employer may specify the hours the employee

may be absent, but the hours must be at the beginning or end of the employee's shift if the employee so requests. **Connecticut** No applicable state law. **Delaware** No applicable state law. **Florida** No applicable state law. **Georgia** Unspecified; however, according to the Georgia Secretary of State, there is no obligation for an employer to pay the employee for the time taken to vote. Yes, reasonable notice is required. Employees may take leave up to two hours unless polls are open two hours before employee begins shift or two hours after employee ends shift. Employer may specify when leave may be taken. **Hawaii** Yes, up to two hours. Deductions can be made if employee does not vote. No requirement. Employee may take leave for up to two hours excluding any lunch or rest periods unless the polls are open for two consecutive hours (excluding lunch and rest periods) at which the employee is not working. **Idaho** No applicable state law. **Illinois** Yes, up to two hours. Yes, prior to election day. Employee may take 2 hours of leave during working hours if the employee's working hours begin less than two hours after the opening of the polls and end less than two hours before the closing of the polls. The employer may specify when leave may be taken. **Indiana** No applicable state law. **Iowa** Yes. Yes, individually in writing prior to election day. Employee may take leave up to three consecutive hours unless polls are open for three consecutive hours during which the employee is not required to be at work. If polls are open for less than three hours during which employee is not working, employee may take leave up to an amount which, when added to the time the polls are open, equals three consecutive hours. The employer may specify when leave may be taken. **Kansas** Yes. No requirement. Employee may take leave up to two consecutive hours unless the polls are open for two or more consecutive hours before or after the employee's shift. If polls are open for less than two hours before or after employee's shift, employee may take leave up to an amount which, when added to the time the polls are open, equals two consecutive hours. The employer may specify when leave may be taken but such time may not include the employee's regular lunch period. **Kentucky** Unspecified. Yes, prior to election day. Employee may take leave for a reasonable time, but not less than four hours. The employer may specify when employee may take leave. **Louisiana** No applicable state law. **Maine** No applicable state law. **Maryland** Yes, up to two hours. No. Up to two hours if the employee does not have two hours of continuous off-duty time during which the polls are open. Employees must furnish proof that they voted or attempted to vote and such proof must be on a form prescribed by the State Board. **Massachusetts** Unspecified. Yes. Employee may take leave during the first two hours after the polls open. **Michigan** No applicable state law. **Minnesota** Yes. No. Employee may take leave for the time necessary to appear at the employee's polling place, cast a ballot, and return to work on the day of that election. **Mississippi** No applicable state law. **Missouri** Yes. Yes, prior to election day. Up to three hours unless the employee has three successive hours while the polls are open in which he is not working for his employer. The employer may specify when the leave may be taken. **Montana** No applicable state law. **Nebraska** Yes, up to two hours of paid leave if the employee properly requested leave. Yes, employees must make leave request on or before election day. Leave can be taken during work time unless the employee has two consecutive non-work hours to vote while the polls are open. If polls are open for less than two consecutive non-working hours, employee may take leave up to an amount which, when added to the non-working time the polls are open, equals two consecutive hours. The employer may specify when the leave may be taken. **Nevada** Yes, (a) one hour of paid leave if the distance between voter's employment and voter's polling place is two miles or less; (b) two hours of paid leave if the distance is more than two miles but not more than ten miles; and (c) three hours of paid leave if the distance is more than ten miles. Yes, employees must make leave request prior to election day. Leave can be taken during work time if it is "impracticable" for the employee to vote before or after his hours of employment. The employer, however, may specify when during the working day employees may take this time off. The length of leave is determined by the distance between the place of employment and the

employee's polling place. **New Hampshire** No applicable state law. **New Jersey** No applicable state law. **New Mexico** Yes, up to two hours of paid leave. No requirement. Two hours of leave can be taken during work time unless the polls are open either two hours before or three hours after the employee is scheduled to work. The employer may designate the hours to be taken. **New York** Yes, up to two hours of paid leave. Yes, employees must notify employers of the need for time off not more than ten days and not less than two days before election day. Employees are allowed to take "sufficient time" on election day as is necessary to allow them to vote unless the polls are open for four consecutive hours either before or after the employee is scheduled to work. If the employee has less than four consecutive hours, employee may take leave for so much working time as will when added to the amount of voting time outside of employee's working hours, will enable employee to vote. Employers may designate whether the time is to be taken at the beginning or end of the shift, unless otherwise mutually agreed. Employers must post a conspicuous notice of employee rights at least ten days before election day. **North Carolina** No applicable state law. **North Dakota** Unspecified. Unspecified Employers are "encouraged" to provide time off to vote when an employee's regular work schedule conflicts with the times polls are open. NOTE: The recommended policy is voluntary. **Ohio** No. No requirement. Employees are allowed a "reasonable amount of time to vote on election day." **Oklahoma** Yes, up to two hours or more if distance requires; must show proof of voting. Yes, oral or written notice the day before election day. Leave can be taken during work time unless the polls are open for three or more consecutive hours either before or after the employee is scheduled to work. The employer may specify when leave may be taken and may change work hours to accommodate voting. **Oregon** No applicable state law. **Pennsylvania** No applicable state law. **Rhode Island** No applicable state law. **South Carolina** No applicable state law. **South Dakota** Yes, up to two hours. No requirement. Leave can be taken during work time unless the polls are open for two or more consecutive hours outside the employee's working hours. The employer may specify when leave may be taken. **Tennessee** Yes, up to three hours. Yes, before 12:00 p.m. the day before election day. Leave can be taken during work time unless the polls are open for three or more consecutive hours either prior to or after the employee is scheduled to work. The employer may specify when leave may be taken. **Texas** Yes. No requirement. Leave can be taken during work time unless the polls are open for two or more consecutive hours outside the employee's working hours. **Utah** Yes, up to two hours. Yes, employees must request leave before election day. Leave can be taken during work time unless the polls are open for three or more hours outside the employee's working hours. The employer may specify when leave may be taken. However, if the employee requests leave at the beginning or end of the work shift, the employer must grant that request. **Vermont** No applicable state law. **Virginia** No applicable state law. **Washington** Yes, up to two hours. No requirement. Leave can be taken only if the employee has insufficient time to get an absentee ballot and the polls are not open for two or more free hours outside the employee's working hours, excluding meal and rest breaks. **Washington, D.C.** No applicable law. **West Virginia** Yes, up to three hours. If the employee neglected to vote when the polls were open for three consecutive non-working hours, employee's wages can be deducted for time actually absent. Yes, written demand at least three days before election day. Up to three hours of leave can be taken during work time. In certain essential services and in production, manufacturing and processing works requiring continuity in operation, the employer may, on receipt of a written request, specify when leave may be taken. **Wisconsin** No. Yes, before election day. Up to three hours of leave can be taken during work time. The employer may specify when leave may be taken. **Wyoming** Yes, up to one hour, excluding meal breaks, if employee actually voted. No requirement. Leave can be taken during work time unless the polls are open three or more consecutive hours outside the employee's working hours. The employer may specify when leave may be taken.

For more information regarding this or any other employment-related issue, please contact your Vorys attorney or a member of the Vorys Labor and Employment Group by calling 614.464.6400.

