

NY BUDGET BILL AMENDS PAID TIME OFF TO VOTE LAW – POSITIVE NEWS FOR EMPLOYERS

Hodgson Russ Labor & Employment Alert
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As part of last year's budget, the New York State Legislature amended New York's voting leave law (Election Law § 3-110) to grant registered voters up to three hours of paid time off to vote in most public elections, regardless of the amount of time available to an employee to vote outside of his or her scheduled working hours. That amendment also imposed an additional burden on employers by eliminating the presumption that employees would be considered to have sufficient time to vote outside of their work hours (and therefore be ineligible for paid time off) if they had four consecutive hours between the polls opening and the beginning of their working shift, or four consecutive hours between the end of their shift and the polls closing.

This year's budget bill again amends New York's voting leave law to return it largely to its pre-2019 form.

The Election Law now provides registered voters who do not have "sufficient time outside of his or her scheduled working hours" with up to **two** hours of paid time off to vote in most public elections. The law also reinstates the presumption that employees will be considered to have sufficient time to vote outside of their scheduled work hours if they have four consecutive hours between the polls opening and the beginning of their work shift, or four consecutive hours between the end of their shift and the polls closing.

Employees who do not have sufficient time to vote outside of their scheduled work hours continue to be eligible to take off as much time as will allow them to vote in a covered election, but only up to two hours of that time needs to be paid by the employer. Employers may still require employees to take any time off under the law either at the beginning or end of the employee's shift (at the employer's discretion).

The new law also requires employees to notify their employer of the need for leave at least two, but not more than ten, working days in advance. Employers are still required to post a notice regarding the availability of leave under the law at least ten working days before every covered election.

Employers should review their voting leave policies and required posting to ensure that they comply with these amendments to the Election Law prior to the upcoming election cycle. If you have any questions, please contact Lindsay Menasco (716.848.1214) or Andrew Drilling (716.848.1412) for assistance.

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