

House Study Bill 87

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL BY
CHAIRPERSON MASCHER)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing time off from work to attend presidential
2 precinct caucuses and making penalties applicable.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1878HC 83
5 ec/nh/8

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1 1 Section 1. Section 39A.5, subsection 1, paragraph b, Code
1 2 2009, is amended by adding the following new subparagraph:
1 3 NEW SUBPARAGRAPH. (3) As an employer, denying an employee
1 4 the privilege conferred by section 43.4A to attend a precinct
1 5 caucus, or subjecting an employee to a penalty because of the
1 6 exercise of that privilege.
1 7 Sec. 2. NEW SECTION. 43.4A EMPLOYEES ENTITLED TO TIME TO
1 8 PARTICIPATE IN PRESIDENTIAL PRECINCT CAUCUSES.
1 9 1. Any person entitled to participate in a precinct caucus
1 10 held as part of the presidential nominating process in this
1 11 state who is required to be present at work for an employer
1 12 during the four-hour period starting one hour prior to the
1 13 time the precinct caucus starts is entitled to take unpaid
1 14 leave for as much of that four-hour period as is necessary to
1 15 participate in the precinct caucus except as provided by this
1 16 section. Application by any employee for such absence shall
1 17 be made to the employer individually and in writing
1 18 at least fourteen days prior to the time the precinct caucus
1 19 is scheduled to start. The employee shall not be liable for
1 20 any loss of wages or salary or any other penalty except for
1 21 the loss of wages or salary for the hours of unpaid leave
1 22 actually used.
1 23 2. a. An application for an absence by an employee may be
1 24 denied by an employer if all the following circumstances
1 25 exist:
1 26 (1) The person is employed in an emergency services
1 27 position which shall include peace officer, fire fighter,
1 28 emergency medical personnel, and any other position that
1 29 seriously affects public health or safety, or is employed by
1 30 an entity that would experience severe economic or operational
1 31 disruption due to the person's absence.
1 32 (2) The employer filed a written notice with the
1 33 commissioner at least seven days prior to the date of the
1 34 precinct caucus specifying exigent circumstances justifying
1 35 the denial of such leave for personnel described in
2 1 subparagraph (1) and declaring the minimum number of such
2 2 personnel, by position, needed to protect public health and
2 3 safety or maintain minimum operational capacity, as
2 4 applicable. A copy of this written notice shall be provided
2 5 to employees of the employer.
2 6 (3) The number of persons employed in a position that did
2 7 not apply for an absence is less than the minimum number of
2 8 persons in that position needed by the employer to protect
2 9 public health and safety or maintain minimum operational
2 10 capacity, as applicable.
2 11 b. If the circumstances in paragraph "a" exist as to a
2 12 particular position of the employer, then the employer may
2 13 deny the minimum number of employees applying for an absence
2 14 in that position needed to yield the minimum staffing level
2 15 for that position as specified in the written notice to the
2 16 commissioner. The selection of which employees applying for
2 17 an absence shall be denied shall be made without regard to

2 18 political party affiliation, political belief, or affiliation
2 19 with or support for any candidate, or for any of the grounds
2 20 for which employment discrimination is prohibited in this
2 21 state.

2 22 3. An employer may, in lieu of providing unpaid leave to
2 23 affected employees to attend a presidential precinct caucus,
2 24 do any of the following:
2 25 a. Authorize paid leave to all affected employees.
2 26 b. Allow all affected employees the option to work
2 27 additional compensatory hours, at a time designated by the
2 28 employer not in conflict with the time needed for caucus
2 29 participation, equal in number to the number of hours taken to
2 30 participate in the presidential precinct caucus. The option
2 31 of working compensatory hours may be exercised individually by
2 32 each employee. Work done during the compensatory hours shall
2 33 be compensated in the same manner as work during regular
2 34 hours.

2 35 EXPLANATION

3 1 This bill provides that a person shall be entitled to
3 2 unpaid time off from work to attend a presidential precinct
3 3 caucus for up to four hours beginning one hour prior to the
3 4 start of the precinct caucus. The bill provides that the
3 5 employee shall make a written application with their employer
3 6 for such absence at least 14 days prior to the caucus and the
3 7 employee is not liable for any penalty nor shall any deduction
3 8 be made from the person's regular salary or wages except for
3 9 the period of time of the absence. The bill provides that the
3 10 requirement to allow time off does not apply if the person is
3 11 employed in an emergency services position or by an entity
3 12 that would experience severe economic disruption due to the
3 13 person's absence, the employer files a written notice with the
3 14 county commissioner of elections specifying the exigent
3 15 circumstances justifying the denial of such leave and the
3 16 minimum number of persons needed, by position, to protect
3 17 public health and safety or maintain minimum operational
3 18 capacity, the number of persons not applying for leave is less
3 19 than the minimum number specified by the employer, and the
3 20 denial of leave for those number of persons needed to reach
3 21 the minimum staffing number specified is done in a
3 22 nondiscriminatory manner.

3 23 The bill also permits an employer to provide paid leave for
3 24 the absence or to allow affected employees the option to work
3 25 the hours of the absence at such other time so long as either
3 26 option is made available to all affected employees.

3 27 The bill provides that an employer who denies an employee
3 28 the privilege conferred by this bill to attend a presidential
3 29 precinct caucus commits election misconduct in the fourth
3 30 degree, a simple misdemeanor. A simple misdemeanor is
3 31 punishable by confinement for no more than 30 days or a fine
3 32 of at least \$65 but not more than \$625 or by both.

3 33 LSB 1878HC 83

3 34 ec/nh/8