

Senate File 431 - Introduced

SENATE FILE 431

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A BILL FOR

1 An Act providing time off from work to attend presidential
2 precinct caucuses, making penalties applicable, and
3 including effective date provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 39A.5, subsection 1, paragraph b, Code
2 2019, is amended by adding the following new subparagraph:

3 NEW SUBPARAGRAPH. (4) As an employer, denying an employee
4 the privilege conferred by section 43.91A to attend a precinct
5 caucus, or subjecting an employee to a penalty because of the
6 exercise of that privilege.

7 Sec. 2. NEW SECTION. **43.91A Employees entitled to time to**
8 **participate in presidential precinct caucuses.**

9 1. Any person entitled to participate in a precinct caucus
10 held as part of the presidential nominating process in this
11 state who is required to be present at work for an employer
12 during the four-hour period starting one hour prior to the time
13 the precinct caucus starts is entitled to take unpaid leave for
14 as much of that four-hour period as is necessary to participate
15 in the precinct caucus except as provided by this section.
16 Application by any employee for such absence shall be made to
17 the employee's employer individually and in writing at least
18 two weeks prior to the time the precinct caucus is scheduled to
19 start. The employee shall not be liable for any loss of wages
20 or salary or any other penalty except for the loss of wages or
21 salary for the hours of unpaid leave actually used.

22 2. a. An application by an employee for an absence may be
23 denied by an employer if all the following circumstances exist:

24 (1) The person is employed in an emergency services position
25 which shall include peace officer, fire fighter, emergency
26 medical personnel, and any other position that affects the
27 protection of public health or safety, or is employed by an
28 entity that would experience severe economic or operational
29 disruption due to the person's absence.

30 (2) The employer filed a written notice with the
31 commissioner at least seven days prior to the date of the
32 precinct caucus specifying exigent circumstances justifying the
33 denial of such leave for personnel described in subparagraph
34 (1) and declaring the minimum number of such personnel,
35 by position, needed to protect public health and safety or

1 maintain minimum operational capacity, as applicable. A copy
2 of this written notice shall be provided to employees of the
3 employer.

4 (3) The number of persons employed in a position that did
5 not apply for an absence is less than the minimum number of
6 persons in that position needed by the employer to protect
7 public health and safety or maintain minimum operational
8 capacity, as applicable.

9 b. If the circumstances in paragraph "a" exist as to a
10 particular position of the employer, then the employer may deny
11 the minimum number of employees in that position applying for
12 an absence that is needed to yield the minimum staffing level
13 for that position as specified in the written notice to the
14 commissioner. The selection of which employees applying for
15 an absence shall be denied an absence shall be made without
16 regard to political party affiliation, political belief, or
17 affiliation with or support for any candidate, or for any of
18 the grounds for which employment discrimination is prohibited
19 in this state.

20 3. This section shall not be construed to prohibit an
21 employer from doing any of the following:

22 a. Authorizing paid leave to all affected employees.

23 b. Allowing all affected employees the option to work
24 additional compensatory hours to the extent otherwise permitted
25 by law, at a time designated by the employer not in conflict
26 with the time needed for caucus participation, equal in number
27 to the number of hours taken to participate in the presidential
28 precinct caucus as provided in subsection 1. The option of
29 working compensatory hours may be exercised individually by
30 each employee. Work performed during the compensatory hours
31 shall be compensated in the same manner as work performed
32 during regular hours.

33 Sec. 3. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
34 immediate importance, takes effect upon enactment.

35

EXPLANATION

1 The inclusion of this explanation does not constitute agreement with
2 the explanation's substance by the members of the general assembly.

3 This bill provides that a person shall be entitled to unpaid
4 time off from work to attend a presidential precinct caucus
5 for up to four hours beginning one hour prior to the start
6 of the precinct caucus. The bill provides that the employee
7 shall make a written application with their employer for such
8 absence two weeks prior to the caucus and the employee is not
9 liable for any penalty nor shall any deduction be made from the
10 person's regular salary or wages except for the period of time
11 of the absence.

12 The bill provides that the requirement to allow time off
13 does not apply if the person is employed in a position that
14 affects the protection of public health or safety or by an
15 entity that would experience severe economic disruption due
16 to the person's absence. Such employer must file a written
17 notice with the county commissioner of elections specifying the
18 exigent circumstances justifying the denial of such leave and
19 the minimum number of persons needed, by position, to protect
20 public health and safety or maintain minimum operational
21 capacity, and that the number of persons not applying for leave
22 is less than the minimum number specified by the employer.
23 The denial of leave for those number of persons needed to
24 reach the minimum staffing number specified must be done in a
25 nondiscriminatory manner.

26 The bill also permits an employer, in lieu of providing
27 unpaid leave, to provide paid leave for the absence or to allow
28 affected employees the option to work the hours of the absence
29 at another time to the extent permitted by law so long as
30 either option is made available to all affected employees.

31 The bill provides that an employer who denies an employee
32 the privilege conferred by this bill to attend a presidential
33 precinct caucus commits election misconduct in the fourth
34 degree, a simple misdemeanor. A simple misdemeanor is
35 punishable by confinement for no more than 30 days or a fine of

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1 at least \$65 but not more than \$625 or by both.

2 The bill takes effect upon enactment.