

Modifying Election Day

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Issue

You asked about moving Election Day to a different day or making it a legal state holiday as well as what states have done either. Additionally, we included information on voting leave laws.

Summary

Since 1845, federal law sets Election Day as the Tuesday after the first Monday in November. Connecticut's constitution and General Statutes also designate this day for general state elections and state statute sets it as the day for most municipal elections. Changing Connecticut's general state election day would require a constitutional amendment and make it the only state with a general election day different than the federally established one.

The general election is a regularly scheduled election for electing candidates. This is in contrast to primary elections, which are used to narrow down the candidates running for office, and special elections, which are held as-needed.

Nineteen states have made Election Day a legal state holiday but do not require that private entities give employees the day off. However, 29 states have established voting leave laws requiring employers to provide 1-4 hours of paid or unpaid leave to vote on Election Day, depending on the state. In 2021, Connecticut passed legislation requiring employers to provide two hours of unpaid voting leave through 2024.

Laws Establishing Election Day

Federal Law

In 1845, Congress established Election Day as the Tuesday after the first Monday in November for presidential electors ([3 U.S.C. § 1](#)). Federal law later required that congressional representatives (1872) ([2 U.S.C. § 7](#)) and senators (1914) ([2 U.S.C. § 1](#)) be elected on this day as well. Although

federal law does not apply this requirement to state offices, states have adopted this day for state elections as a matter of convenience. National efforts have attempted to move Election Day to the weekend (such as [H.R. 1094 \(2017\)](#)) or [consolidating Election Day with Veterans Day](#).

State Law

The state constitution requires that general elections for members of the General Assembly (Conn. Const. [art. III, § 8](#)), governor, lieutenant-governor, secretary of the state, treasurer, comptroller, attorney general (art. IV, § 1), probate judges (art. V, § 4), deciding on constitutional amendments (art. 12), and voting to convene a constitutional convention (art. 13, § 2) be held on the Tuesday after the first Monday in November. Connecticut law also defines this day as the general state election day ([CGS § 9-1](#)) and requires town clerks to publicize that day ([CGS § 9-225](#)).

Generally, municipal elections must also take place on this day unless the municipality lawfully selects the first Monday of May in odd-numbered years as the municipal election day ([CGS § 9-164](#)). According to the [secretary of the state](#), four towns (Andover, Bethany, Union, and Woodbridge), one city (Groton), and eight of the nine boroughs (excluding Naugatuck) have chosen the May election date.

Additionally, a constitutional amendment is on the ballot for the 2022 general election, that if adopted, would allow the legislature to pass legislation authorizing voters to cast their ballot prior to election day (i.e., early voting). This measure was placed on the ballot after two successful votes by the legislature in 2019 and 2021 ([H.J.R. 59, June Special Session \(JSS\), \(2021\)](#)).

Election Day as a Holiday

Designating Holidays

Congress is generally responsible for establishing new federal holidays. Federal law establishes 11 days as legal federal holidays ([5 U.S.C. § 6103](#)). The president may also establish days of national observance through proclamation. Federal proposals to make Election Day a nationwide holiday (such as [H.R. 222 \(2021\)](#)) have not been adopted.

In Connecticut, the General Statutes designate 11 of Connecticut's 13 legal holidays ([CGS § 1-4](#), as amended by [PA 22-128](#)). The governor designates the remaining two: Good Friday and Thanksgiving. Several bills have attempted to add Election Day as a state holiday. Most recently, in 2019, [sSB 479](#) and [sHB 7160](#) proposed adding it as a state holiday and were favorably reported by the Government Administration and Elections Committee, but neither were adopted.

States with Election Day Holidays

Nineteen states have established Election Day as a legal state holiday. Three states (Tennessee, West Virginia, and Wisconsin) extend legal holiday status beyond the traditional general election day to include other elections such as primaries, special elections, or certain local elections. However, private employers are generally not required by law to give employees time off for federal or state holidays (see next section).

Table 1: State Election Day Holiday Statutes

State	Statute	State	Statute
Delaware	Del. Code Ann. tit. 1 § 501	New York	N.Y. Gen. Constr. § 2-24
Florida	Fla. Stat. § 683.01	North Carolina	N.C. Gen. Stat. § 103-4
Hawaii	Haw. Rev. Stat. § 8-1	Ohio (half-day)	Ohio Rev. Code Ann. § 5.20
Illinois (through 2022)	10 ILCS 5/2A-1.1c	Pennsylvania	44 Pa. Cons. Stat. § 2-11
Kentucky	Ky. Rev. Stat. Ann. § 2.190	Rhode Island	25 R.I. Gen. Laws § 25-1-1
Louisiana	La. Stat. Ann. § 1:55	Tennessee*	Tenn. Code Ann. § 15-1-101
Maryland	Md. Code Ann. GP § 1-111	Virginia	Va. Code Ann. § 2.2-3300
Montana	Mont. Code Ann. § 1-1-216	West Virginia**	Vt. Stat. Ann. tit. 2 § 2-1
New Hampshire	N.H. Rev. Stat. Ann. § 288.1	Wisconsin***	Wis. Stat. § 995.20
New Jersey	N.J. Stat. Ann. § 36:1-1		

*For all county, state, or national elections

**For any general, primary, or special election

***For all primary and general elections and certain municipal elections

Impact on Private Citizens

Although various states have made Election Day a holiday, state and federal law generally do not require employers to give time off for state holidays. The federal [Fair Labor Standards Act](#) does not require private employers to give employees paid or unpaid time off for holidays (federal or otherwise).

On the state level, Maine ([Me. Stat. tit. 17, § 105-3204](#)) generally requires employers to close on certain holidays, but does not extend this to Election Day. Massachusetts ([Mass. Gen. Laws ch. 136](#)) and Rhode Island ([25 R.I. Gen. Laws ch. 3](#)) generally prohibit employers from making employees work on certain holidays, but do not extend this prohibition to Election Day. No other states were identified as requiring private employers to give employees time off for holidays.

Connecticut also established certain prohibitions on working Sundays and certain holidays (CGA §§ [53-302a](#) and [53-303b](#)). However, the Connecticut Supreme Court found the law's exemptions allowing certain businesses to remain open, and certain items to be sold, were arbitrary and violated the state and U.S. constitutions' equal protection and the due process provisions. The court held the law unconstitutional as it applied to Sundays, which also appears to apply to the holiday prohibition (*Caldor's Inc. v. Bedding Barn, Inc.* 177 Conn. 304 (1979)).

Impact on Public Employees

Connecticut state law requires that all full-time, permanent state employees receive paid time off for all legal state holidays ([CGS § 5-254](#)). However, unionized state employees may collectively bargain over wages, hours, and other employment conditions and bargaining agreements supersede state law if there is a conflict (CGA §§ [5-271\(a\)](#) and [5-278\(e\)](#)). Therefore, if Election Day is declared a legal state holiday, unionized state employees would not necessarily receive a paid day off and may have to collectively bargain for it.

Impact on Services

By law, legal state holidays are also bank and credit union holidays, during which bank and credit union transactions are generally suspended ([CGS § 36a-23](#)). Additionally, each school district decides to close public schools on Election Day (many of which are used as polling places) (CGS § 1-4). By law, each local and regional board of education that remains open on a legal state holiday must hold a suitable educational program in observance of the holiday.

Voting Leave

As of October 2021, 29 states mandated that private employers provide voting leave (i.e., time off to vote), according to Westlaw. Twenty states require paid time-off, seven states do not specify, and two states (Wisconsin and Connecticut) specify it does not have to be paid. States vary in the amount of voting leave they require (ranging from one to four hours), although some just direct employers to provide adequate time for the employee to vote.

Connecticut recently adopted its voting leave legislation. Beginning in 2021 and through June 2024, Connecticut employers must provide two hours of unpaid leave for employees to vote ([PA 21-2, JSS, § 94](#), codified as CGS § 31-57y).

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