



STATE OF WEST VIRGINIA
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August 25, 2010

The Honorable Joe Manchin III
Governor of West Virginia
State Capitol Complex
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Manchin:

This letter is in response to your follow-up question posed upon receipt of the Attorney General's opinion of August 24, 2010 relating to certain issues involving State employees vis a vis the upcoming Special Election being held Saturday, August 28, 2010.

The question posed is as follows: "... whether State employees scheduled to work Saturday have an entitlement to a comparable day off or only 3 hours to vote?"

Applicable Authority

W. Va. Code § 2-2-1
W. Va. Code R. § 143-1-14 *et seq.*

It is our opinion that State employees scheduled to work and working on Saturday, August 28, 2010 are entitled to a comparable day off as W. Va. Code § 2-2-1 unambiguously makes an election day a "legal holiday."

As to the portion of the question related to time off to vote on Saturday, it is our opinion that the provisions of W. Va. Code R. § 143-1-14.1(f) control. The Code section reads:

(f) An appointing authority shall, if necessary, allow any employee required to work on any election day ample and convenient time and opportunity to cast his or her vote. Upon receipt of a written request at least three work days prior to an election, an appointing authority shall give any employee who has less than three hours of time

away from work during hours polling places are open, up to three hours of paid time off between the opening and closing of the polls, to vote. The appointing authority shall schedule such time off to avoid impairment or disruption of essential services and operations.

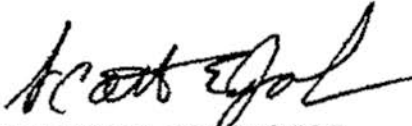
Should an employee scheduled to work and working on Saturday, August 28, 2010 comply with the notice provision of the subsection, he or she is entitled to up to three hours of paid time off in order to vote which would be deducted from the comparable time awarded for working on election day.

We hope this opinion adequately addresses your questions.

Very truly yours,

DARRELL V. McGRAW, JR.
ATTORNEY GENERAL

By


SCOTT E. JOHNSON

Assistant