

## Employers' Guide for PR's General Election Day

### ATTORNEYS

- Anita Montaner-Sevillano
- Miguel Rivera-Arce
- Reinaldo L. Figueroa-Matos
- Rica López de Alós
- Guillermo Figueroa-Navarro
- Natalia Marín-Catalá
- Iraida Díez
- James D. Noël
- Mariela Suárez-Colón
- Ismael A. Molina-Villarino
- Beatriz Martínez-Godás

### PRACTICE AREAS

- Government Affairs & Public Policy
- Labor & Employment
- Wage & Hour Regulation

### An McV Labor & Employment Law Alert

August 22, 2024

General Election Day in Puerto Rico is on November 5, 2024. As political activity increases, employers should be aware that Puerto Rico Act No.100-1959 prohibits discrimination based on an employee's political affiliation. Thus, an employee's terms and conditions of employment cannot be affected because of his or her political beliefs and affiliation.

Moreover, any employer that intends to operate during General Election Day needs to plan ahead in light of the rights afforded to employee-voters. Please note that, although it is not a legal holiday, the General Election Day is known for its high voter turnout, which may, in turn, impact employees' attendance and businesses operations.

The Puerto Rico Electoral Code ("Act 58-2020") provides voters the option of early mail-in voting. Under Act 58-2020, employers may ask their employees to arrange for early mail-in voting and/or to visit an early voting center on General Election Day if it is foreseeable that their work schedule will conflict with the polling stations' hours of operation. **The early voting option is available up to fifty (50) days before the General Election Day, that is, up to September 16, 2024.** Applications for early voting ("Early Voting Request") are available on the Puerto Rico Electoral Commission's website: <https://ww2.ceepur.org/Home/SolicituddeVoto> . Employers may inform their employees of this deadline.

However, if it was not foreseeable that an employee's work obligations would conflict with the polling stations' hours on General Election Day and/or the employee was not able or failed to comply with the early voting deadline, Act 58-2020 requires all employers to grant a two (2)- hour paid leave for employees to vote. If more time is needed due to wait times or the distance between the workplace and the assigned polling station, employers may charge the excess of two (2) hours to accrued vacation or, in case of a non-exempt employee, it may go unpaid.

The two-hour (2) voting leave under Act 58-2020 applies to all employees who are registered voters and are scheduled to work during a voting event. Since the right to vote is guaranteed by Puerto Rico's Constitution, employers are strongly encouraged to liberally grant the voting leave to any employee who is

scheduled to work on General Election Day and so requests.

Employer violations of voting leave rights under Act 58-2020 and/or the anti-discrimination protections on political affiliation under Act 100-1958, entail civil and criminal penalties, plus the affected employee may claim remedies of reinstatement, back-pay and double damages.

The content of this McV Alert has been prepared for information purposes only. It is not intended as, and does not constitute, either legal advice or solicitation of any prospective client. An attorney-client relationship with McConnell Valdés LLC cannot be formed by reading or responding to this McV Alert. Such a relationship may be formed only by express agreement with McConnell Valdés LLC.