

MAINE STATE LEGISLATURE

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L.D. 938

Date: 6-8-21

(Filing No. H-501)

MINORITY
LABOR AND HOUSING

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 694, L.D. 938, "An Act To Ensure
Maine Workers' Right To Request a Schedule Change at Their Places of Employment"

Amend the bill by striking out the title and substituting the following:

'An Act To Ensure Maine Workers' Right To Request Flexible Working
Arrangements'

Amend the bill by striking out everything after the enacting clause and inserting the
following:

'Sec. 1. 26 MRSA §600-A is enacted to read:

§600-A. Flexible working arrangements

1. Definitions. As used in this section, unless the context otherwise indicates, the
following terms have the following meanings.

A. "Flexible working arrangement" means temporary changes in the employee's
regular working arrangements that last up to one calendar year, including:

- (1) Changes in the number of days or hours worked;
- (2) Changes in the time the employee arrives to or departs from work;
- (3) Working from home; and
- (4) Job-sharing.

"Flexible working arrangement" does not include routine scheduling of shifts, vacation
or other employee leave.

B. "Inconsistent with business operations" includes, with regard to a flexible working
arrangement, the following conditions:

- (1) The burden of additional costs on an employer;
- (2) A detrimental effect, unrelated to discrimination or other unlawful employment
practices, on aggregate employee morale;

COMMITTEE AMENDMENT

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- (3) A detrimental effect on the ability of an employer to meet consumer demand;
- (4) An inability to reorganize work among existing staff;
- (5) An inability to recruit additional staff;
- (6) A detrimental impact on business quality or business performance;
- (7) An insufficiency of work during the periods the employee proposes to work;
and
- (8) Planned structural changes to the business.

2. Right to request a flexible working arrangement. An employee may request a flexible working arrangement up to twice per calendar year. The employer shall consider a request in accordance with subsection 3 twice per calendar year. A flexible working arrangement under this section must meet the needs of the employer and employee.

3. Form of request and response. The employer shall discuss in good faith the request for a flexible working arrangement with the employee. The employer and employee may propose alternative arrangements during the discussion. The employer shall consider the employee's request for a flexible working arrangement and whether the request can be granted in a manner that is not inconsistent with business operations or the employer's legal or contractual obligations. The employer is not required to grant the request. The employer shall notify the employee of its decision regarding the request. If the request was submitted in writing, the employer shall state any complete or partial denial of the request in writing.

4. Other rights not diminished. This section does not diminish any rights of any employee under this chapter or pursuant to a collective bargaining agreement. An employer may institute a flexible working arrangement policy that is more flexible than is provided by this section. This section does not affect any legal rights an employer or employee may have under applicable law to create, modify or terminate a flexible working arrangement.

5. Retaliation prohibited. An employer may not retaliate against an employee exercising a right under this section. An employer may not discharge an employee from employment or discriminate against an employee because that employee asserted or attempted to assert the right to make a request under this section.

6. Enforcement. An employer that violates this section commits a civil violation for which a fine of not less than \$100 and not more than \$500 per violation may be adjudged. The Department of Labor shall enforce this section.

Sec. 2. Appropriations and allocations. The following appropriations and allocations are made.

LABOR, DEPARTMENT OF

Regulation and Enforcement 0159

Initiative: Provides ongoing funds for one Labor and Safety Inspector position and related All Other costs associated with the enforcement of an employee's right to request a flexible working arrangement from an employer.

GENERAL FUND	2021-22	2022-23
POSITIONS - LEGISLATIVE COUNT	1,000	1,000
Personal Services	\$63,597	\$87,667
All Other	\$5,289	\$5,289

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GENERAL FUND TOTAL

\$68,886	\$92,956
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Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment replaces the bill. This amendment allows employees to request a flexible working arrangement from an employer up to twice per year. An employer must consider a request by an employee for a flexible working arrangement twice per year and discuss the flexible working arrangement with the employee in good faith. The employee and employer may discuss alternative arrangements to the flexible working arrangement. The employer is not required to grant the employee's request for a flexible working arrangement. The amendment also adds an appropriations and allocations section.

FISCAL NOTE REQUIRED

(See attached)



130th MAINE LEGISLATURE

LD 938

LR 1696(02)

An Act To Ensure Maine Workers' Right To Request a Schedule Change at Their Places of Employment

Fiscal Note for Bill as Amended by Committee Amendment *A(CH-501)*

Committee: Labor and Housing

Fiscal Note Required: Yes

Fiscal Note

Potential current biennium revenue increase - General Fund

	FY 2021-22	FY 2022-23	Projections FY 2023-24	Projections FY 2024-25
Net Cost (Savings)				
General Fund	\$68,886	\$92,956	\$95,761	\$98,656
Appropriations/Allocations				
General Fund	\$68,886	\$92,956	\$95,761	\$98,656

Fiscal Detail and Notes

This bill includes General Fund appropriations of \$68,886 in fiscal year 2021-22 and \$92,956 in fiscal year 2022-23 to the Regulation and Enforcement program within the Department of Labor for one Labor and Safety Inspector position and related All Other costs associated with the enforcement of an employee's right to request a flexible working arrangement from an employer. Revenue received from fines assessed on employers who violate this Act accrue to the General Fund.