

MAINE STATE LEGISLATURE

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Date 6/5/23 Majority

L D. 827
(Filing No H-322)

LABOR AND HOUSING

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
131ST LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT "A" to H P 516, L D 827, "An Act to Allow Employees to Request Flexible Work Schedules"

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

'Sec. 1. 26 MRSA c. 7, sub-c. 13 is enacted to read

SUBCHAPTER 13

FLEXIBLE WORK SCHEDULES

§879-A. Flexible work schedules

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

A "Employer" means any private or public employer, including the State and political subdivisions of the State

B "Flexible work schedule" means a work arrangement in which an employee works completely or partially at a location other than the place of employment or works hours different than the regular hours of the position

C. "Inconsistent with employer operations" means, with respect to a flexible work schedule, any one or more of 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,**
- (3) A detrimental effect on the ability of an employer to meet consumer demand,**
- (4) An inability to reorganize work among existing employees,**

COMMITTEE AMENDMENT

- 1 (5) An inability to recruit additional employees,
- 2 (6) A detrimental impact on business quality or business performance,
- 3 (7) An insufficiency of work during the periods the employee proposes to work a
- 4 flexible work schedule,
- 5 (8) Planned structural changes to the business, or
- 6 (9) Determination by the employer that the position held by the employee cannot
- 7 be performed completely or partially at a location other than the place of
- 8 employment

9 **2. Request; duration; denial.** An employee of an employer may submit a request in
 10 writing, including by electronic means, for a flexible work schedule. The employer shall
 11 consider the employee's request for a flexible work schedule and whether the request may
 12 be granted in a manner that is not inconsistent with employer operations. The employer is
 13 not required to grant a request by an employee. The employer shall inform the employee
 14 in writing, including by electronic means, of the employer's decision regarding the
 15 employee's request for a flexible work schedule. If the employer does not grant the request
 16 of an employee, the employer must specify in the decision to the employee the reason the
 17 request is denied. The reason may include, but is not limited to, a reason specified in
 18 subsection 1, paragraph C. If the employer grants the request by the employee for a flexible
 19 work schedule, the employee and employer shall mutually agree on the duration of time
 20 and the terms of that flexible work schedule.

21 **3. Employer may rescind flexible work schedule.** Notwithstanding the terms of an
 22 agreement between an employee and employer under subsection 2, an employer may
 23 rescind a flexible work schedule if the employer determines it is necessary with as much
 24 notice as practicable to the employee.

25 **4. Retaliation prohibited.** An employer that takes action intended to prevent or
 26 penalize a person from exercising rights protected under this subchapter is subject to a civil
 27 penalty of not less than \$100 and not more than \$500 payable to the Department of Labor.
 28 The penalty is recoverable in a civil action.

29 **5. Collective bargaining agreements.** This section may not be construed to limit the
 30 terms of a collective bargaining agreement that provides an employee with rights more
 31 expansive than the rights established by this section.

32 **Sec. 2. Appropriations and allocations.** The following appropriations and
 33 allocations are made

34 **LABOR, DEPARTMENT OF**

35 **Regulation and Enforcement 0159**

36 Initiative: Provides funds for one half-time Labor & Safety Inspector position and related
 37 All Other costs to ensure compliance with new requirements regarding flexible work
 38 schedules

39	GENERAL FUND	2023-24	2024-25
40	POSITIONS - LEGISLATIVE COUNT	0 500	0 500
41	Personal Services	\$30,188	\$40,450
42	All Other	\$4,258	\$7,169

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GENERAL FUND TOTAL \$34,446 \$47,619

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively

SUMMARY

This amendment, which is the majority report of the committee, replaces the bill This amendment does the following

- 1 It combines the definitions of "private employer" and "public employer "
- 2 It allows an employee to request in writing, including by electronic means, a flexible work schedule
- 3 It requires an employer to consider an employee's request for a flexible work schedule and whether the request can be granted in a manner that is not inconsistent with employer operations It defines "inconsistent with employer operations "
- 4 It specifies that an employer and an employee must mutually agree on the duration of time and terms of a flexible work schedule
- 5 It allows an employer to rescind a flexible work schedule with as much notice to an employee as is practicable
- 6 It prohibits an employer from retaliating against an employee for exercising rights given under the subchapter enacted by the bill
- 7. It specifies that a collective bargaining agreement may provide an employee with rights more expansive than rights established by the subchapter enacted by the bill

FISCAL NOTE REQUIRED

(See attached)



131st MAINE LEGISLATURE

LD 827

LR 1210(02)

An Act to Allow Employees to Request Flexible Work Schedules

Fiscal Note for Bill as Amended by Committee Amendment "A (H-322)"

Committee: Labor and Housing

Fiscal Note Required: Yes

Fiscal Note

	FY 2023-24	FY 2024-25	Projections FY 2025-26	Projections FY 2026-27
Net Cost (Savings)				
General Fund	\$34,446	\$47,619	\$49,075	\$50,584
Appropriations/Allocations				
General Fund	\$34,446	\$47,619	\$49,075	\$50,584

Fiscal Detail and Notes

This bill includes ongoing General Fund appropriations of \$34,446 in fiscal year 2023-24 and \$47,619 in fiscal year 2024-25 to the Regulation and Enforcement program within the Department of Labor for one half-time Labor & Safety Inspector position and related All Other costs to ensure compliance with new requirements regarding flexible work schedules. This fiscal note assumes the position will start on October 1, 2023.