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Committee amendment to LD 827, "An Act to Allow Employees to Request Flexible Work Schedule"

Amend the bill by striking everything after the enacting clause and inserting in its place 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. "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.

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

C. "Inconsistent with employer operations" means, with respect to a flexible work schedule, 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;

(5) An inability to recruit additional employees;

(6) A detrimental impact on business quality or business performance;

(7) An insufficiency of work during the periods the employee proposes to work;

(8) Planned structural changes to the business; or

(9) The employer determines that the position held by the employee cannot be performed completely or partially at a location other than the place of employment.

2. Request; duration. An employee of an employer may submit a request in writing, including by electronic means, for a flexible work schedule. 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 employer operations. The employer is not required to grant a request by an employee. The employer shall inform the employee in writing, including by electronic means, of the employer's decision of the employee's request for a flexible work schedule. If the employer grants the request by the employee for a flexible work schedule, the employee and employer shall mutually agree on the duration of time and terms of that flexible work schedule.

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

4. Retaliation prohibited. An employer that takes action intended to prevent or penalize a person from exercising rights protected under this subsection commits a civil violation for which a fine of not less than \$100 nor more than \$500 for each violation may be adjudged. The Department of Labor shall enforce this section.

5. Collective bargaining agreements. Nothing in this section may be construed to limit the terms of a collective bargaining agreement that provides an employee with greater rights other than the rights established by this section.

SUMMARY

This amendment replaces the bill. This amendment does the following.

1. Changes the definition of "employer."
2. Allows an employee to request in writing, including by electronic means, a flexible work schedule.
3. It requires the employer to consider the employee's request for a flexible work arrangement and whether the request can be granted in a manner that is not inconsistent with employer operations. It defines "inconsistent with employer operations."

LD 827
Sponsor amendment
Rep. Roeder

4. It specifies that the employer and employee shall mutually agree on the duration of time and terms of a flexible work arrangement.
5. It allows an employer to rescind a flexible work arrangement if the employer provides reasonable notice to an employee.
6. It prohibits an employer from retaliating against an employee for exercising rights given under this section.
7. Specifies that a collective bargaining agreement may provide an employee with greater rights than this section.