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*Testimony of Michael J. Dunn, Esq., Acting State Human Resources Officer of Maine
Bureau of Human Resources Department of Administrative and Financial Services
testifying Neither For Nor Against*

LD 60, An Act to Allow Employees to Request Flexible Work Schedules

Sponsored by Representative Amy Roeder
Before the Joint Standing Committee on Labor

Senator Tipping, Representative Roeder, and members of the Joint Standing Committee on Labor, I am Michael Dunn, Acting Human Resources Officer of the State of Maine Bureau of Human Resources. I am providing the below written testimony neither for nor against LD 60, so that the Committee may better understand the options for flexible schedules and telework already in place in Maine State Government.

First a clarification: though LD 60 indicates its intent is to allow an employee to request a flexible work schedule, the definition of “flexible work schedule” provided in the language of the bill extends beyond flexing one’s work hours or ‘schedule’ to also include allowing an employee to work completely or partially at a location other than their place of employment. Under Maine State Government’s definitions, the bill proposes to allow both flexible schedules and flexible work locations (i.e. telework). Each is addressed separately in this document.

Flexible Work Schedules

Maine State Government has had various versions of Human Resources Memoranda on Alternate Work Schedules in place since 1983, which have afforded employees the ability to request such alternate work schedules as staggered work hours, flexible work schedules (flex-time), and compressed work weeks. The current Human Resources Memorandum 2-08 on Alternate Work Schedules replaced the 1983 version and was updated to include requiring that the employer’s response to a request must be provided timely and in writing and to provide an appeal process for reconsideration of an employee’s denied request. Additionally, the collective bargaining agreements between the State and MSEA include language confirming that the parties have agreed to accept this HR Memorandum on flexible work schedules.

Telework

The Executive Branch published a Baseline Telework Policy in 2021 and some department specific policies were created from this baseline. These policies afford employees the opportunity to request to telework on a regular or occasional basis at an agreed upon telework site. Employees submit requests electronically; managers approve, modify, or decline requests; and an appeal process is

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provided. The bargaining agreements between the State and MSEA include the following language in the Telework article:

Telework policies will be adopted or modified in accordance with the Work Rules article of this Agreement. An employee may request to telework by submitting a request in writing, which shall include electronically, in accordance with their agency's telework policy. The requested telework may be approved, denied, or modified consistent with agency policy.

If the employee is not satisfied with the initial determination in response to their telework request, and the agency policy does not expressly provide for an appeal process, then the employee can request reconsideration by the appointing authority or designee by submitting a request for reconsideration in writing, which shall include electronically, within ten (10) workdays of receiving the initial determination. The appointing authority or designee shall review the request for reconsideration and reach their own determination, within thirty (30) workdays, on whether the request can be approved as is, approved in a modified form, or cannot be approved. The appointing authority or designee shall notify the employee in writing, which shall include electronically, as soon as their determination is reached.

The decision of the appointing authority, designee, or the agency representative charged by policy with rendering the decision on appeal, shall be final and not subject to the Grievance Procedure article of this Agreement.

Employees who telework must comply with the provisions of their agency's teleworking policy.

By policy, the State's telework requests are authorized for a year and reviewed annually. Also by policy, telework authorization may be adjusted or terminated in response to a request from the employee or by the employer.

The most recent data on the State's telework dashboard indicates 23% of employees (2,798 of 11,935) are teleworking an average of 2.97 days per week. This information, and more, can be found at the Maine Executive Branch Telework Dashboard [Works for ME | Department of Administrative and Financial Services](#).

Thank you for your consideration and if requested, I will make myself available to the Committee during the work session.