



AGC MAINE

THE CONSTRUCTION ASSOCIATION

March 23rd, 2023

Senator Tipping, Senate Chair
Representative Roeder, House Chair
Members of the Joint Standing Committee on Labor and Housing
100 State House Station
Augusta, Maine 04333

RE: AGC Maine's Opposition to LD 827 "An Act to Allow Employees to Request Flexible Work Schedules"

Senator Tipping, Representative Roeder, and distinguished members of the Joint Standing Committee on Labor and Housing my name is Matthew Marks, I am a Principal at Cornerstone Government Affairs, and sending this on behalf of my client The Associated General Contractors of Maine. AGC Maine is a statewide commercial construction trade association and a Chapter of AGC America which was founded in 1918 with 27,000 contractors, suppliers, and service providers nationwide.

The construction industry is largely dependent on fieldwork with conditions subject to weather, regulations, and specifications of the project. The season can be compressed, often placing burdens on a changing work environment. Some regulations or even local ordinances specify when tasks can occur, curtailing work during some periods of time and extending work when allowed. That might vary by region and often changes the approach by the job. Recently that has become problematic as contractors have adjusted for night work when required by both public and private owners. Certainly, during a six-month period of time, the work could change drastically.

Specifically, the definition states in section "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.*" In the construction industry, the place of employment is a moving target. The hours can depend on the delivery of materials, access to the site, and material specifications requiring the completion of work. For example, the delivery of concrete, or asphalt where they are fluid products where time is directly associated with the successful placement.

When fieldwork occurs at night, on weekends, or early morning it's common that support workers in the construction office will be required to be present. Those support positions vary, including safety, human resources, finance, mechanics, purchasing, and other technical positions. During weather events, it might require both field and office staff to be present. The industry is best served when the entire team is present for their operations, including the safety of personnel.

Additionally, a company could allow flexibility during periods of the year for some positions but that can change with new contracts. In the section describing the duration we also have concerns "*2. Request; duration. An employee of a public or private employer may request a flexible work schedule for up to 6 months. An employer may not discipline an employee who requests a flexible work schedule.*" In the first sentence, six months assumes construction work conditions have consistency in volume and needs,

which is rarely the case. It's also not clear in the last sentence if this prohibits disciplinary action for any reason if someone requests flexible work-although I'm sure that was the intent. For example, if the employee violates an offsite work policy or other policy in the company's handbook it should be in conformance with their policy and not tied to their request for a flexible work schedule.

Generally, the industry has a mix of approaches to employees working offsite. In some positions, the tasks allow for remote work or a blend. It's our opinion this should be left to the individual company to determine the process.

We are happy to answer any questions and thank the Committee for considering our initial concerns.

Sincerely,

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