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HOUSE BILL NO. 1020

Offered January 12, 2022

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A *BILL to amend and reenact §§ 2.2-203.1 and 2.2-2817.1 of the Code of Virginia, relating to the Secretary of Administration; state agencies; telecommuting and alternative work schedules policy; application to otherwise qualified persons with a disability.*

Patron—Tran

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-203.1 and 2.2-2817.1 of the Code of Virginia are amended and reenacted as follows: § 2.2-203.1. Secretary to establish telecommuting and alternative work schedule policy; duties.

A. As used in this section:

"Alternative work schedule" means the same as that term is defined in § 2.2-2817.1.

"Otherwise qualified person with a disability" means the same as that term is defined in § 51.5-41.

"Person with a disability" means the same as that term is defined in § 51.5-40.1.

"Telecommuting" means the same as that term is defined in § 2.2-2817.1.

B. The Secretary shall establish a comprehensive statewide telecommuting and alternative work schedule policy under which eligible employees of state agencies, as determined by state agencies, may telecommute or participate in alternative work schedules, and the Secretary shall periodically update such policy as necessary.

~~B.~~ C. The telecommuting and alternative work schedule policy described in subsection A B shall include, ~~but not be limited to~~, model guidelines, rules and procedures for telecommuting and participation in alternative work schedules, and identification of the broad categories of positions determined to be ineligible to participate in telecommuting *or alternative work schedules* and the justification for such a determination. Such policy may also include an incentive program, to be established and administered by the Department of Human Resource Management, that may encourage state employees to telecommute or participate in alternative work schedules and that may encourage the state agencies' management personnel to promote telecommuting and alternative work schedules for eligible employees.

~~C.~~ D. The statewide telecommuting and alternative work schedule policy described in subsection B shall also specify that it shall be an unlawful discriminatory practice for a state agency to refuse to allow an otherwise qualified person with a disability to telecommute or participate in alternative work schedules as a form of reasonable accommodation in accordance with §§ 2.2-3905.1 and 51.5-41.

E. The Secretary shall have the following duties related to promoting the telecommuting and alternative work schedule policy:

1. Promote and encourage use of ~~telework alternatives~~ telecommuting and alternative work schedules for public and private employees, including ~~but not limited to~~ appropriate policy and legislative initiatives. Upon request, the Secretary may advise and assist private-sector employers in the Commonwealth in planning, developing, and administering programs, projects, plans, policies, and other activities for telecommuting *and alternative work schedules* by private-sector employees and in developing incentives provided by the private sector to encourage ~~private sector~~ private-sector employers in the Commonwealth to utilize employee telecommuting.

2. Advise and assist state agencies and, upon request of the localities, advise and assist localities in planning, developing, and administering programs, projects, plans, policies, and other activities to promote telecommuting *and alternative work schedules* (i) by employees of state agencies or localities and (ii) as a form of reasonable accommodation, in accordance with §§ 2.2-3905.1 and 51.5-41, for otherwise qualified persons with a disability.

3. Coordinate activities regarding ~~telework~~ telecommuting and alternative work schedules with, and regularly report to, a panel consisting of the Secretaries of Commerce and Trade, Finance, and Transportation. The Secretary of Administration shall serve as chair of the panel. Additional members may be designated by the Governor. Staff support for the panel shall be provided by the offices of the Secretaries of Administration and Transportation, and the Governor shall designate additional agencies to provide staff support as necessary.

4. Convene an interagency work group to identify model policies from both the public and private sector that enable persons with disabilities to participate in the Commonwealth's workforce through telecommuting and alternative work schedules. The work group shall include the Secretaries of

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59 *Commerce and Trade and Labor, or their designees; the Commissioner of the Department for the Blind*
60 *and Vision Impaired, the Director of the Department for Aging and Rehabilitative Services, the Director*
61 *of the Department for the Deaf and Hard of Hearing, and the Chairman of the Virginia Board for*
62 *People with Disabilities, or their designees; one representative each from (i) a local workforce*
63 *development board that has experience serving persons with disabilities, (ii) a community-based*
64 *organization that provides employment services to persons with disabilities, and (iii) an employer or*
65 *employer association; and a person with a disability. The model policies shall include best practices*
66 *across a range of industries and identify relevant resources available to employers through the federal*
67 *government or national organizations. The Secretary shall make the model policies publicly available for*
68 *all businesses in the Commonwealth.*

69 5. Report annually to the General Assembly on ~~telework~~ telecommuting and alternative work
70 schedule participation levels and trends of both private and public-sector employees in the
71 Commonwealth.

72 **§ 2.2-2817.1. State agencies to establish telecommuting and alternative work schedules policy;**
73 **reporting requirement.**

74 A. As used in this section:

75 "Alternate work locations" means approved locations other than the employee's central workplace
76 where official state business is performed. Such locations may include the home of an employee and
77 satellite offices.

78 "Alternative work schedule" means schedules that differ from the standard workweek or 40-hour
79 workweek schedule, if such schedules are deemed to promote efficient agency operations. Alternative
80 work schedules may include four 10-hour days, rotational shifts, and large-scale job sharing.

81 "Central workplace" means an employer's place of work where employees normally are located.

82 "Otherwise qualified person with a disability" means the same as that term is defined in § 51.5-41.

83 "Telecommuting" means a work arrangement in which supervisors direct or permit employees to
84 perform their usual job duties away from their central workplace at least one day per week and in
85 accordance with work agreements.

86 "Work agreement" means a written agreement between the employer and employee that details the
87 terms and conditions of an employee's work away from his central workplace.

88 B. In accordance with the statewide telecommuting and alternative work schedule policy, to be
89 developed by the Secretary of Administration pursuant to § 2.2-203.1, the head of each state agency
90 shall establish a telecommuting and alternative work policy under which eligible employees of such
91 agency may telecommute, participate in alternative work schedules, or both, to the maximum extent
92 possible without diminished employee performance or service delivery. The policy shall identify types of
93 employees eligible for telecommuting and alternative work schedules, the broad categories of positions
94 determined to be ineligible for telecommuting and the justification therefor, any benefits of
95 telecommuting including the use of alternate work locations that are separate from the agency's central
96 workplace, and any benefits of using alternative work schedules. The policy shall promote use of
97 Commonwealth information technology assets where feasible but may allow for eligible employees to
98 use computers, computing devices, or related electronic equipment not owned or leased by the
99 Commonwealth to telecommute, if such use is technically and economically practical, and so long as
100 such use meets information security standards as established by the Virginia Information Technologies
101 Agency, or receives an exception from such standards approved by the CIO of the Commonwealth or
102 his designee. The policy shall be updated periodically as necessary.

103 B. C. The head of each agency shall set annual percentage targets for the number of positions
104 eligible for telecommuting and alternative work schedules. By July 1, 2009, each state agency shall have
105 a goal of not less than 25 percent of its eligible workforce participating in alternative work schedules.
106 By January 1, 2010, each state agency, except the Department of State Police, shall have a goal of not
107 less than 20 percent of its eligible workforce telecommuting.

108 C. D. The head of each state agency shall annually report to the Secretary of Administration or his
109 designee on the status and efficiency of telecommuting and participation in alternative work schedules
110 and concerning specific budget requests for information technology, software, telecommunications
111 connectivity (i.e., broadband Internet access, additional telephone lines, and online collaborative tools),
112 or other equipment or services needed to increase opportunities for telecommuting and participation in
113 alternate alternative work locations schedules.

114 D. As used in this section:

115 "Alternate work locations" means approved locations other than the employee's central workplace
116 where official state business is performed. Such locations may include, but not be limited to the home
117 of an employee and satellite offices.

118 "Alternative work schedule" means schedules that differ from the standard workweek, 40-hour
119 workweek schedule, if such schedules are deemed to promote efficient agency operations. Alternative
120 work schedules may include, but not be limited to, four 10-hour days, rotational shifts, and large-scale

121 job sharing.

122 "Central workplace" means an employer's place of work where employees normally are located.

123 "Telecommuting" means a work arrangement in which supervisors direct or permit employees to
124 perform their usual job duties away from their central workplace at least one day per week and in
125 accordance with work agreements.

126 "Work agreement" means a written agreement between the employer and employee that details the
127 terms and conditions of an employee's work away from his central workplace.

128 *E. 1. The telecommuting and alternative work schedule policy developed by each state agency in*
129 *accordance with subsection B shall specify that it shall be an unlawful discriminatory practice to refuse*
130 *to allow an otherwise qualified person with a disability to telecommute as a form of reasonable*
131 *accommodation in accordance with §§ 2.2-3905.1 and 51.5-41.*

132 *2. The annual percentage targets for the number of positions eligible for telecommuting and*
133 *alternative work schedules, as described in subsection C, shall not include the number of otherwise*
134 *qualified persons with a disability allowed to telecommute as a form of reasonable accommodation, as*
135 *described in subdivision 1.*

136 *3. The annual report described in subsection D shall separately identify the required information and*
137 *data for (i) otherwise qualified persons with a disability who telecommute as a form of reasonable*
138 *accommodation, as described in this subsection, and (ii) all other eligible employees.*