

Chapter 696

(House Bill 73)

AN ACT concerning

State and Local Government ~~and Private Employers~~ and Public Institutions of Higher Education – Teleworking

FOR the purpose of establishing the Office of Telework Assistance in the Department of Commerce; specifying the duties of the Office; establishing the Business Telework Assistance Grant Program in the Department of Commerce; providing for the purpose of the Program; providing that a grant awarded under the Program may be used to purchase certain equipment or services; establishing that a business must develop a certain telework policy to qualify for a grant under the Program; requiring a certain business to submit a certain letter to the Department of Commerce that includes certain items within a certain period of time; requiring the Department of Commerce to prioritize certain businesses and consider certain factors in awarding a grant under the Program; authorizing the Department of Commerce to require a certain grant recipient to return certain funds under certain circumstances; requiring the Governor to include in the annual budget bill a certain appropriation for the Program for each fiscal year; requiring the Secretary of Commerce to adopt certain regulations; requiring each governing body, or the governing body's designee, of a county or municipality to establish a certain telework program and adopt a certain telework policy and telework guidelines; authorizing the head of a governmental entity of a county or municipality to designate positions for which employees are eligible to telework; ~~requiring~~ authorizing each governmental entity of a county or municipality to maximize, ~~to the extent practicable,~~ the number of eligible employees in the entity participating in a certain telework program; requiring the State Court Administrator ~~and,~~ the President of the Senate and the Speaker of the House, and the presidents of each public institution of higher education to establish a certain telework program and adopt a certain telework policy and telework guidelines; authorizing certain officials to designate positions for which an employee would be eligible to telework and to negotiate certain criteria for designated telework positions under certain circumstances; requiring certain officials to maximize the number of employees participating in a certain telework program; requiring certain officials, ~~in coordination with the Department of Information Technology,~~ to issue certain guidelines for a certain purpose; requiring certain guidelines for a certain purpose; requiring an employee determined eligible to participate in a certain telework program to receive and acknowledge certain guidelines before participating in the program; requiring a unit of State government, or the principal department in which the unit is located, to report annually certain information to certain committees of the General Assembly; ~~encouraging private sector employers to develop and implement a certain telework policy; stating the intent of the General Assembly;~~ requiring the Office of Telework Assistance to report certain information to the General Assembly on or before a certain date; defining certain terms; and generally relating to telework programs in the State.

BY adding to

Article – Economic Development

Section 3–601 and 3–602 to be under the new subtitle “Subtitle 6. Office of Telework Assistance”; and 5–1701 and 5–1702 to be under the new subtitle “Subtitle 17. Business Telework Assistance Grant Program”

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

BY adding to

Article – Local Government

Section 1–206

Annotated Code of Maryland

(2013 Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

Article – State Personnel and Pensions

Section 2–308

Annotated Code of Maryland

(2015 Replacement Volume and 2020 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Economic Development

SUBTITLE 6. OFFICE OF TELEWORK ASSISTANCE.

3–601.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “OFFICE” MEANS THE OFFICE OF TELEWORK ASSISTANCE.

(C) “TELEWORK” HAS THE MEANING STATED IN § 2–308 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

3–602.

(A) THERE IS AN OFFICE OF TELEWORK ASSISTANCE WITHIN THE DEPARTMENT.

(B) THE OFFICE SHALL:

(1) ESTABLISH BEST PRACTICES FOR TELEWORK POLICIES;

(2) CONSULT WITH THE BUSINESS COMMUNITY AND OTHER GOVERNMENTAL AGENCIES, INCLUDING THE DEPARTMENT OF BUDGET AND MANAGEMENT AND THE DEPARTMENT OF INFORMATION TECHNOLOGY, AS THE OFFICE DETERMINES IS NECESSARY IN ESTABLISHING THE BEST PRACTICES;

(3) POST THE BEST PRACTICES ESTABLISHED BY THE OFFICE ON THE DEPARTMENT'S WEBSITE IN A PUBLICLY ACCESSIBLE LOCATION;

(4) ON OR BEFORE OCTOBER 1, 2021, AND EACH OCTOBER 1 THEREAFTER, ADOPT GUIDELINES ON THE BEST PRACTICES ESTABLISHED BY THE OFFICE UNDER THIS SUBTITLE; AND

(5) ASSIST PRIVATE SECTOR BUSINESS ENTITIES IN IMPLEMENTING TELEWORK POLICIES FOR THEIR EMPLOYEES.

SUBTITLE 17. BUSINESS TELEWORK ASSISTANCE GRANT PROGRAM.

5-1701.

IN THIS SUBTITLE, "PROGRAM" MEANS THE BUSINESS TELEWORK ASSISTANCE GRANT PROGRAM.

5-1702.

(A) THERE IS A BUSINESS TELEWORK ASSISTANCE GRANT PROGRAM IN THE DEPARTMENT.

(B) THE PURPOSE OF THE PROGRAM IS TO ASSIST AND SUPPORT BUSINESSES IN IMPLEMENTING TELEWORK POLICIES FOR THEIR EMPLOYEES.

(C) A GRANT AWARDED UNDER THE PROGRAM MAY BE USED TO PURCHASE HARDWARE, SOFTWARE, OR ANY OTHER TECHNICAL EQUIPMENT OR TECHNICAL SERVICES NECESSARY FOR A BUSINESS TO IMPLEMENT A TELEWORK POLICY.

(D) (1) TO QUALIFY FOR A GRANT UNDER THE PROGRAM, A BUSINESS MUST DEVELOP A TELEWORK POLICY THAT CONFORMS TO THE BEST PRACTICES ESTABLISHED BY THE OFFICE OF TELEWORK ASSISTANCE UNDER TITLE 3, SUBTITLE 6 OF THIS ARTICLE.

(2) WITHIN 1 YEAR AFTER RECEIVING A GRANT UNDER THE PROGRAM, A BUSINESS SHALL SUBMIT A LETTER TO THE DEPARTMENT THAT:

(I) DESCRIBES HOW THE GRANT FUNDING WAS USED;

(II) INCLUDES THE TELEWORK POLICY THAT WAS IMPLEMENTED USING THE GRANT FUNDING; AND

(III) INCLUDES ANY INVOICES RELATED TO THE IMPLEMENTATION OF THE TELEWORK POLICY.

(E) (1) IN AWARDING A GRANT, THE DEPARTMENT SHALL:

(I) PRIORITIZE AWARDING GRANTS TO SMALL BUSINESSES;
AND

(II) CONSIDER:

1. THE NUMBER OF EMPLOYEES IN THE BUSINESS; AND

2. THE ASSISTANCE NEEDED FOR THE BUSINESS TO IMPLEMENT A TELEWORK POLICY.

(2) THE DEPARTMENT MAY REQUIRE A GRANT RECIPIENT THAT FAILS TO FULFILL THE REQUIREMENTS OF THE GRANT TO RETURN ALL OR PART OF THE GRANT TO THE PROGRAM.

(F) FOR EACH FISCAL YEAR, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN APPROPRIATION OF \$1,000,000 FOR THE PROGRAM.

(G) THE SECRETARY SHALL ADOPT REGULATIONS NECESSARY TO CARRY OUT THIS SECTION.

Article – Local Government

1-206.

(A) IN THIS SECTION, “TELEWORK” MEANS TO WORK AT A LOCATION OTHER THAN A TRADITIONAL OFFICE SETTING OR AN EMPLOYEE’S USUAL AND CUSTOMARY WORKSITE, INCLUDING:

(1) THE EMPLOYEE’S HOME;

(2) A SATELLITE OFFICE; AND

(3) A TELEWORK CENTER.

(B) THIS SECTION APPLIES TO:

(1) ALL EMPLOYEES OF A GOVERNMENTAL ENTITY OF A COUNTY OR A MUNICIPALITY; AND

(2) ALL GOVERNMENTAL ENTITIES OF A COUNTY OR A MUNICIPALITY.

(C) EACH GOVERNING BODY, OR THE GOVERNING BODY'S DESIGNEE, SHALL:

(1) ESTABLISH A COUNTYWIDE OR MUNICIPALITY-WIDE TELEWORK PROGRAM; AND

(2) ADOPT A COUNTYWIDE OR MUNICIPALITY-WIDE TELEWORK POLICY AND TELEWORK GUIDELINES.

(D) (1) THE HEAD OF A GOVERNMENTAL ENTITY OF A COUNTY OR MUNICIPALITY MAY DESIGNATE THE POSITIONS FOR WHICH AN EMPLOYEE WOULD BE ELIGIBLE TO TELEWORK.

(2) EACH GOVERNMENTAL ENTITY OF A COUNTY OR MUNICIPALITY ~~SHALL, TO THE EXTENT PRACTICABLE,~~ IN ITS DISCRETION, MAY MAXIMIZE THE NUMBER OF ELIGIBLE EMPLOYEES PARTICIPATING IN A COUNTYWIDE OR MUNICIPALITY-WIDE TELEWORK PROGRAM ESTABLISHED UNDER SUBSECTION (C) OF THIS SECTION.

Article – State Personnel and Pensions

2-308.

(a) (1) In this section[, “telework”] THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “APPROPRIATE OFFICIAL” MEANS:

(I) FOR THE EXECUTIVE BRANCH, THE SECRETARY;

(II) FOR THE JUDICIAL BRANCH, THE STATE COURT ADMINISTRATOR; ~~OR~~

(III) FOR THE LEGISLATIVE BRANCH, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE, ACTING JOINTLY; OR

(IV) FOR EACH PUBLIC INSTITUTION OF HIGHER EDUCATION, THE PRESIDENT OF THE INSTITUTION.

(3) “PUBLIC INSTITUTION OF HIGHER EDUCATION” MEANS:

(I) A PUBLIC SENIOR HIGHER EDUCATION INSTITUTION, AS DEFINED IN § 10–101 OF THE EDUCATION ARTICLE; AND

(II) A COMMUNITY COLLEGE.

~~(3)~~ **(4) “TELEWORK”** means to work at a location other than a traditional office setting or an employee’s usual and customary worksite, including:

[(1)] (I) the employee’s home;

[(2)] (II) a satellite office; and

[(3)] (III) a telework center.

(b) This section applies to:

(1) all employees in:

(I) the JUDICIAL, LEGISLATIVE, AND Executive [Branch] BRANCHES of State government; AND

(II) EACH PUBLIC INSTITUTION OF HIGHER EDUCATION; and

(2) **(I) all units in the JUDICIAL, LEGISLATIVE, AND Executive [Branch] BRANCHES of State government, including units with independent personnel systems; AND**

(II) EACH PUBLIC INSTITUTION OF HIGHER EDUCATION.

(c) [The Secretary] **EACH APPROPRIATE OFFICIAL** shall:

(1) establish a [statewide] telework program **APPLICABLE TO THE APPROPRIATE OFFICIAL’S BRANCH OF GOVERNMENT OR PUBLIC INSTITUTION OF HIGHER EDUCATION; and**

(2) adopt a [statewide] telework policy and telework guidelines **APPLICABLE TO THE APPROPRIATE OFFICIAL’S BRANCH OF GOVERNMENT OR PUBLIC INSTITUTION OF HIGHER EDUCATION.**

(d) (1) ~~The head of a unit in the Executive Branch of State government may~~
EACH APPROPRIATE OFFICIAL MAY:

(I) designate the positions for which an employee would be eligible to telework; **AND**

(II) **BEGINNING FISCAL YEAR 2023, NEGOTIATE CRITERIA FOR DESIGNATED TELEWORK POSITIONS IF THE EMPLOYEES AFFECTED BY TELEWORK POLICIES ARE REPRESENTED BY AN EXCLUSIVE REPRESENTATIVE.**

(2) ~~A unit in the Executive Branch of State government~~ **EACH APPROPRIATE OFFICIAL** shall [have a goal of at least 15%], **TO THE EXTENT PRACTICABLE, MAXIMIZE THE NUMBER** of eligible employees participating in the [statewide] telework program established under subsection (c) of this section.

(E) (1) **EACH APPROPRIATE OFFICIAL, ~~IN COORDINATION WITH THE DEPARTMENT OF INFORMATION TECHNOLOGY,~~ SHALL ISSUE GUIDELINES TO ENSURE THE ADEQUACY OF INFORMATION AND SECURITY PROTECTION FOR INFORMATION AND INFORMATION SYSTEMS USED WHILE TELEWORKING.**

(2) **THE APPROPRIATE OFFICIAL FOR EACH UNIT IN THE EXECUTIVE BRANCH SHALL DEVELOP THE GUIDELINES UNDER PARAGRAPH (1) OF THIS SUBSECTION IN COORDINATION WITH THE DEPARTMENT OF INFORMATION TECHNOLOGY.**

(3) **GUIDELINES ISSUED UNDER THIS SECTION SHALL, AT A MINIMUM, INCLUDE REQUIREMENTS NECESSARY TO:**

(I) **CONTROL ACCESS TO AND PROTECT UNIT INFORMATION AND INFORMATION SYSTEMS;**

(II) **LIMIT THE INTRODUCTION OF VULNERABILITIES TO UNIT INFORMATION SYSTEMS;**

(III) **PROTECT INFORMATION SYSTEMS NOT UNDER CONTROL OF THE UNIT THAT ARE USED FOR TELEWORKING;**

(IV) **SAFEGUARD WIRELESS AND OTHER COMMUNICATIONS CAPABILITIES THAT ARE USED FOR TELEWORKING; AND**

(V) **PREVENT INAPPROPRIATE USE OF OFFICIAL TIME OR RESOURCES IN VIOLATION OF A UNIT'S POLICIES.**

~~(3)~~ (4) AN EMPLOYEE DETERMINED TO BE ELIGIBLE TO PARTICIPATE IN A TELEWORK PROGRAM ESTABLISHED UNDER SUBSECTION (C) OF THIS SECTION SHALL RECEIVE AND ACKNOWLEDGE THE GUIDELINES ISSUED UNDER THIS SECTION BEFORE PARTICIPATING IN THE TELEWORK PROGRAM.

(F) ON OR BEFORE DECEMBER 1 EACH YEAR, EACH UNIT OF STATE GOVERNMENT, OR THE PRINCIPAL DEPARTMENT IN WHICH THE UNIT IS LOCATED, SHALL REPORT TO THE SENATE BUDGET AND TAXATION COMMITTEE AND THE HOUSE APPROPRIATIONS COMMITTEE, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, ON THE NUMBER OF ELIGIBLE AND PARTICIPATING EMPLOYEES ~~PARTICIPATING~~ IN THE APPLICABLE TELEWORK PROGRAM ESTABLISHED UNDER SUBSECTION (C) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That:

~~(a) Private sector employers are encouraged to develop and implement telework policies that enable employees to work at a location other than a traditional office setting or an employee's usual and customary worksite.~~

~~(b) It is the intent of the General Assembly to authorize a tax credit to assist private sector employers in offsetting the costs incurred for the development and implementation of a telework policy, including hiring consultants or other support services, if federal funds are made available for that purpose, on or before December 1, 2021, the Office of Telework Assistance shall report to the General Assembly, in accordance with § 2-1257 of the State Government Article, on the best practices established under Title 3, Subtitle 6 of the Economic Development Article as enacted by this Act.~~

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2021.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 30, 2021.