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Examples of State Flexible Work Arrangement (FWA) Laws

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Examples of State Flexible Work Arrangement (FWA) Laws

I. Removing Legal Obstacles

Category	Statute	Description
CWS	Ariz. Rev. Stat. Ann. § 23-391	The state or a political subdivision may offer compressed work schedules for certain classes of employees notwithstanding the general rule that employees are to be compensated at the rate of one and one-half times the regular rate for overtime work (i.e., any work in excess of eight hours per day).
AWS	Ark. Code Ann. § 17-92-403	The Arkansas State Board of Pharmacy can issue hospital pharmaceutical permits to pharmacists employed in hospitals under which the pharmacists-in-charge may have a flexible schedule of attendance. This is an exception to the general rule requiring the pharmacist-in-charge to work a 40-hour workweek.
AWS	Cal. Labor Code § 511	The employees of a private employer may, upon the proposal of an employer, adopt an AWS that allows up to 10 hour days within a 40-hour workweek without the payment of overtime. This is an exception to the general rule that “any work in excess of eight hours in one day... shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee” (Cal. Labor Code § 510). A proposal to adopt an AWS shall be deemed adopted only if it receives approval in a secret ballot election by at least two-thirds of affected employees. An employer shall make a reasonable effort to find a work schedule not to exceed eight hours in a workday, in order to accommodate any affected employee who was eligible to vote in an election authorized by this section and who is unable to work the alternative schedule hours established as the result of that election.
AWS	Okl. St. Ann § 3	Public employees may be allowed to work in excess of eight hour per day without being paid overtime when such hours are assigned as part of an alternative work schedule.

II. Providing a Right to Ask

Category	Statute	Description/Notes/Last checked
Job Share	Haw. Rev. Stat. § 302A-610	School employees who respond to a required notice issued by the Superintendent regarding a job-sharing program, shall receive a full description of the terms of the program and these employees may apply for the program.
Job Share	Mont. Code Ann. § 2-18-107	On request of a current employee, his position may be considered for job sharing.
Telework	Or. Rev. Stat. § 240.855	Each state agency is to adopt a written policy that "Requires the agency, in exercising its discretion, to consider an employee request to telecommute in relation to the agency's operating and customer needs."

III. Positive Incentives

Category	Statute	Description
AWS	Cal. Unemp. Ins. Code § 16005	New approaches to the use of AWS that expand private sector employment opportunities for older workers will be considered eligible for participation in the federal Job Training Partnership Act of 1982.
Leisure Sharing	Cal. Unemp. Ins. Code § 12100	<p>Leisure Sharing is a "job-creation concept in which some full-time workers voluntarily reduce worktime under such circumstances that additional employment opportunities result from the employer's desire to maintain a given level of production." Cal. Unemp. Ins. Code § 12100. Grants and technical assistance are to be provided to employers in the private sector in order to encourage voluntary participation. The grants offset increases in employers' labor costs which are directly attributable to participation in the leisure sharing program such as increased employee benefits and payroll taxes. The legislative goal is to promote experimentation with ways to create employment opportunities through voluntary redistribution of hours of work, permitting more time away from work for those who desire additional leisure while providing employment for those who have no work. This program only becomes operative when federal or other funds are made available for the program. Cal. Stats.1979, c. 751, § 2.</p> <p>It appears that funds have never been made available for the program since it became codified in 1979. A letter from the Legislative Counsel, dated Feb.26, 1986, notes that as of that date the funds had not yet become available. West's Ann. Cal. Un. Ins. Code D. 5, Refs & Annos. See also</p>

		11 Pac. L. J. 503 (1979).
Telework	N.D. Cent. Code § 54-06-24.1 (expired on June 30, 2005)	Established a process for allowing a state agency to receive 10% of any cost savings due to implementation of a telecommuting program, up to a maximum of \$2,000. Note that this program expired on June 30, 2005.
Telework	N.J. Stat. Ann. § 27:26A-15	Provides for an employer tax credit of up to 5% for accounting or privilege periods beginning January 1, 1994 and ending not later than January 1, 1995, and 10% for accounting or privilege periods beginning January 1, 1995 and ending not later than December 31 2007 of the cost of commuter transportation benefits provided by an employer. Commuter transportation benefits include employer provided alternative means of transportation such as, among others, telecommuting which may be used in conjunction with such strategies as flextime, staggered work hours, compressed work weeks and like measures. Acts as an incentive for compliance with the "New Jersey Traffic Congestion and Air Pollution Control Act."
Telework	Wash. Rev. Code Ann. § 70.94.996	Department of Transportation shall administer a performance-based grant program for private employers, public agencies, non-profit corporations, etc. who offer financial incentives for ride-sharing or telecommuting programs. Units of government can count each commute trip eliminated as part of a telecommuting or AWS program as more than a single trip eliminated for purposes of meeting trip reduction goals. Instead of counting these trips as a single trip, units of government can count them as being worth 1.2 trips. Program expires on January 1, 2014.
Part time	Ark. Code Ann. § 26-51-505	There shall be allowed a credit against the tax imposed by the Arkansas Income Tax Act for any taxpayer who establishes or expands a manufacturing enterprise in the State of Arkansas which results in the creation of new additional full-time or part-time jobs within the state. Part time defined as 20 hours per week for at least 6 months during the taxable year.
Part time	Colo. Rev. Stat. Ann. § 39-22-508.2 – 508.3	Any taxpayer who establishes a new business facility shall be allowed a credit against the tax imposed by part 3 of this article for the taxable year during which commencement of commercial operations occurs at such new business facility and for each of the nine succeeding taxable years. No credit shall be allowed under this section unless the number of new business facility employees engaged or maintained in employment at the new business facility for the taxable year for which the credit is claimed equals or exceeds two persons. "New business facility employee" defined, in part, as a part-time employee working 20 hours a week through the taxable year.
Part time	Kan. Stat. Ann. § 74-50,114 – 50,115	A manufacturing business may be eligible for a sales tax exemption if the manufacturing business provides documented evidence of job expansion involving the employment of at least two additional full-time employees. A nonmanufacturing business may be eligible for a sales tax exemption if the

		nonmanufacturing business provides documented evidence of job expansion involving the employment of at least five additional full-time employees. A retail business may qualify for the sales tax exemption if the retail business provides documented evidence of job expansion involving the employment of at least two additional full-time employees. "Full-time employee" defined, in part, as a person working on a part-time basis (20 hours a week).
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IV. Norm Setting Mandates

Category	Statute	Description
AWS	Mass. Gen. Laws ch. 7, § 6F	Requires a Coordinator of Flexible Hours Employment within the human resources division whose responsibility is the "development, implementation and oversight of plans for the utilization, within all executive agencies, of persons who choose to be employed for a reduced number of hours per week and for the recruitment of such persons for civil service and non-civil service employment."
AWS	Me. Rev. Stat. Ann. Tit. 5, §§ 901-903	The Director of Human Resources shall adopt rules to implement alternative work schedules for employees who are not in collective bargaining units. AWS is defined as flexible hours, job-sharing, or part-time employment. Requires the director to report on the state's progress in establishing alternative work schedules.
AWS	Okla. St. Ann § 840-2.26	Appointing authorities are encouraged to adopt flextime and AWS in order to increase service to the public, to assist state employees with meeting needs of their families, and to improve employee morale and productivity. Administrator of the Office of Personnel Management shall provide technical assistance to agencies in developing flextime policies and alternative work schedules and shall promulgate rules as necessary for such policies.
AWS	R.I. Gen. Laws §§ 36-3.1-4 – 3.1-6	It is the policy of the state to offer AWS to state employees as a method to reduce consumer congestion, conserve energy, increase employee morale, increase productivity, and reduce tardiness and absenteeism. By January 1, 1989, all units of state agencies (with some exemptions) shall offer alternative work schedules to their employees. Defines alternative work schedules as including flexitime, compressed workweeks, job sharing, permanent part-time, etc.
AWS	Fla. Stat. Ann. § 110.1522	The Department of Management Services is to create a model rule establishing personnel policies that support families in all state agencies, including "policies on flexible hour work schedules, compressed time, job sharing, [and] part-time employment"
AWS	N.C. Gen. Stat. Ann. § 126-74, et.	The State Personnel Commission shall develop a "Work Options Program" to expand the use of work options such as flexible work hours, job sharing, and part-time positions. This program shall

	seq.	include training sessions for agency personnel to instruct them in the use of work options, technical assistance to agency personnel in developing work options, and identifying positions that would be good candidates for various forms of AWS. The State Personnel Director is to assign a State Work Options Coordinator to direct these efforts. The Commission or any participating agency is responsible for promulgating any necessary rules. The State Personnel Commission shall require a biennial report of each State agency on the status of the Work Options Program and subsequently make such a report to the legislature.
AWS	Wash. Rev. Code Ann. § 70.94.531	No more than six months after a jurisdiction adopts a trip reduction plan, each major employer in the jurisdiction shall develop a trip reduction plan which may include a program of alternative work schedules and telecommuting programs which reduce commuting. The plan shall consist of, in part, a set of measures designed to achieve the applicable commute trip reduction goals adopted by the jurisdiction.
AWS /Telework	Va. Code Ann. § 2.2-203.1	The secretary shall establish a comprehensive statewide telecommuting and alternative work schedule policy under which eligible employees may telecommute or participate in alternative work schedules. The policy shall include model guidelines, rules, and procedures, and may include an incentive program to encourage employees to participate in these programs and to encourage management personnel to promote telecommuting and AWS for eligible employees.
Telework	Ariz. Rev. Stat. Ann. § 41-786	The Director of the Department of Administration shall provide for the reimbursement of up to 100% of the costs of telecommuting connectivity or public transportation for state employees.
Telework	Cal. Gov. Code § 14200, et. seq.	Every state agency shall determine where in its organization telecommuting can be of practical benefit and each agency shall develop and implement a telecommuting plan as part of its telecommuting program where telecommuting is identified as being both practical and beneficial to the organization. The Department of General Services is to establish a unit to oversee the telecommuting programs developed pursuant to this chapter. This unit will facilitate interagency communication around the telecommuting program and develop guidelines to assist agencies in implementation.
Telework	Conn. Gen. Stat. Ann. § 5-248i	The Commissioner of Administrative Services may develop and implement guidelines authorizing telecommuting and work at home programs for state employees. State employees may be authorized to participate in a telecommuting assignment if it is deemed cost effective. The assignment is temporary for a period of no more than six months and may be extended as necessary. The commissioner shall report annually to the legislature as to the extent of use of telecommuting programs.

Telework	Fla. Stat. Ann. § 110.171	The Department of Management Services shall “establish and coordinate the state employee telecommuting program and appoint a statewide telecommuting coordinator to provide technical assistance to state agencies and to promote telecommuting in state government.” The Department shall also identify state employees who are participating in a telecommuting program and “maintain a current listing of job classifications and positions the agency considers appropriate for telecommuting.” Agencies that develop telecommuting policies should also give equal consideration to career and exempt positions in selecting employees to participate in a telecommuting program.
Telework	625 Ill. Comp. Stat. § 33/5; 33/15	Employers in an ozone pollution area, which includes Chicago, Illinois, who operate a structure that emits air pollution may implement voluntary programs that encourage the use of telecommuting, compressed workweeks, etc. if the programs reduce the number of commuting trips by employees or reduce emissions for purposes of creating emission reduction credits under the Clean Air Act.
Telework	Mont. Code Ann. § 2-18-120	An agency may authorize telework for specified employees when it is in the state’s best interest as determined and documented by the agency. The department shall adopt policies to encourage agencies to authorize telework and to provide for the uniform implementation of this section by agencies.
Telework	N.C. Gen. Stat. Ann. § 143-215.107C	The Office of State Personnel shall implement a policy that promotes telecommuting options for State employees as recommended by a report of the State Auditor. The goal of the State is to reduce State employee vehicle miles traveled by 20% without reducing productivity or total work hours.
Telework	N.J. Stat. Ann. § 27:1B-21.18	The Chief Executive Officer and Secretary of the Commerce and Economic Growth Commission shall submit a report to the legislature containing a program to identify specific occupations or sectors of the economy appropriate for telecommuting.
Telework	Or. Rev. Stat. § 240.855	Each state agency is to adopt a written policy that defines specific procedures for telecommuting that is applied consistently throughout the agency and each Agency is to consider employee requests to telecommute in relation to the agency’s customer and operating needs.
Telework	S.C. Code Ann. § 8-11-17	Notwithstanding the required office hours for the departments of state government as provided in [another provision of the state code], state agencies may use flexible scheduling, including hours before 8:30 or after 5:30, so long as implementation of flextime does not impair the ability of the agency to meet its needs and service delivery requirements.
Telework	Va. Code Ann.	“In accordance with the statewide telecommuting and alternative work schedule policy. . . the head

	§ 2.2-2817.1	of each state agency shall establish a telecommuting and alternative work policy under which eligible employees of such agency may telecommute, participate in alternative work schedules, or both, to the maximum extent possible without diminished employee performance or service delivery...The head of each agency shall set annual percentage targets for the number of positions eligible for AWS. By July 1, 2009, each state agency shall have a goal of not less than 25% of its eligible work force participating in AWS. Each agency shall report on the status and efficiency of its programs, [including related budget requests].”
Telework	Va. Code Ann. §15.2-1512.3	Local units of government in Virginia are authorized and encouraged to establish and implement a telecommuting policy.
Telework	Wash. Rev. Code Ann. § 28B.130.030	Directs that transportation fees of higher education institutions are only to be spent on strategies adopted to reduce the number of single-occupant vehicles traveling to college campuses, explicitly including telecommuting programs.
CWS	Cal Govt. Code § 19996.19 – .22	Under the Reduced Worktime Act, it is the policy of California that to the extent feasible, reduced worktime be made available to state employees who are unable or do not want to work standard working hours on a full-time basis. “Reduced worktime” is defined as employment of less than 40 hours of work per week and include job sharing, four-, five-, or six-hour workdays, jobs which provide eight hours of employment or less for one, two, three, four or five days per week, and other arrangements. The purpose of this legislation includes: to provide for maximum employment opportunities, to increase the numbers and kinds of public and private sector voluntary reduced worktime options, to support the creation of a healthy balance between work and family needs, and to strengthen the family and promote domestic tranquility and to benefit the family and society by promoting a balance between work and home. Any employee who believes she is being coerced into taking a reduced hours schedule may file a grievance with the Department of Personnel Administration.
Job Share	Haw. Rev. Stat. § 302A-610	The school superintendent shall implement a job-sharing program according to the specific terms of the statute and must announce the program to most department personnel. A person hired for a job-sharing position shall meet the minimum requirements of the full-time position. Benefits that can be cut in half (e.g. sick days) will be. Note that Haw. Rev. Stat. § 312-7 establishes a similar statutory scheme for library staff.
Job Share	Mo. Rev. Stat.	“The state board of education shall adopt rules to facilitate job-sharing positions for classroom

	§ 168.303	teachers.”
Job Share	Mont. Code Ann. § 2-18-102	The Department of Administration shall foster, develop, and promote job sharing in agencies.
Job Share	N.C. Gen. Stat. Ann. § 115C-326.5	“The State Board of Education shall adopt rules to facilitate job-sharing by public school employees.”
Job Share	Or. Rev. Stat. § 240.012 – .013	The state finds that job sharing is an effective and efficient technique which should be used to improve management of state agencies and that job sharing offers employment opportunities to those who otherwise may be unable to participate in state employment. Insofar as reasonably possible, individuals who hold job-sharing positions shall be entitled to benefits and privileges in proportion to their seniority as adjusted in the proportion that their monthly time employed bears to the monthly time employed by individuals holding full-time positions.
Job Share	W. Va. Code Ann. § 18B-7-9	Each higher education governing board shall establish a policy that includes requiring “institutions to consider feasible and innovative ways to most efficiently utilize the institution's classified employees, such innovations to include flexibility in employee scheduling, job-sharing and four-day work weeks.”
Job Share	Wash. Rev. Code Ann. § 28A.405.070	“[S]chool and educational service districts shall have a policy on the sharing of jobs by district employees.”

V. Outcome Mandates

Category	Statute	Description
AWS	Ariz. Rev. Stat. Ann. § 49-588	Arizona, as part of its air quality laws, requires major private employers to develop and implement traffic reduction programs that may include the establishment of telecommuting or adjusted work hour programs. The statute requires employers to reduce the proportion of employees commuting by single occupancy vehicles by 5% per year over a period of 5 years (10% in certain localities) unless the percentage of commuters in single occupancy vehicles is 60% or less. It also requires employers who fall below regional targets for travel reduction to commit to implementing at least two specific travel reduction measures in the first year of the regional program and at least three measures in the second year. Exemptions exist for employers who can demonstrate that effective strategies are in place. Civil money penalties apply to employers who fail to implement an approved plan within the time schedule provided unless good faith efforts to do so are shown.

Telework	Tex. Health & Safety Code Ann. § 382.05193	Qualifying emission reduction programs, required to be produced by certain facilities that pollute within the state, must include, in part, a telecommuting program for employees. These programs must reduce net emissions in an amount and type sufficient to prevent air pollution to a degree comparable to the amount of the reduction in the facility's emissions that would be necessary to meet the permit requirement.
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VI. Traditional Mandates

Job Share	Cal Govt. Code § 19996.26	All persons employed in reduced worktime positions shall receive most benefits customarily available to full-time employees of state agencies in similar classes or positions on a pro rata basis.
Job Share	Haw. Rev. Stat. § 302A-610	For employees that are job sharing, benefits that cannot be divided (e.g. eligibility for membership to health plan) shall be given to both employees without division. The State's contribution to the job-sharing employee's health, dental, and life insurance plans shall be the same as for full-time employees.
Job Share	5 Ill. Comp. Stat. § 380/1	Statute allows for two individuals to share one employee position (and share the salary and benefits) in any state agency. Seniority must be accorded to employees in shared positions under the same terms as all other employees.
Job Share	Me. Rev. Stat. Ann. Tit. 5, §§ 901-903	Benefits, including retirement benefits, shall be prorated for persons who job share or who are part-time employees.
Job Share	Mo. Rev. Stat. § 168.303	Teachers in job sharing positions shall receive paid legal holidays, annual vacation leave, sick leave, and personal leave on a pro rata basis.
Job Share	Mont. Code Ann. § 2-18-107	State employees in a job-sharing status are entitled to employee benefits on the same basis as part-time employees.
Job Share	N.C. Gen. Stat. Ann. § 115C-326.5	Employees in a job-sharing position shall receive paid legal holidays, annual vacation leave, sick leave, and personal leave on a pro rata basis.
Job Share	N.H. Rev. Stat. § 100-A:4	Any teacher in service who equally shares a job-sharing position with another teacher shall be eligible for the retirement system. "Any such teacher shall accrue full creditable service for the entire period of job-sharing."
Job Share	Or. Rev. Stat. § 243.170	When two public employees are in a job-sharing position, the state shall contribute an amount no greater than what would be spent to obtain benefits coverage for one individual in the same position, for both of the employees in the job-sharing position to split. Each of these employees

		can then make further contributions that are necessary in order to obtain coverage.
Job Share	R.I. Gen. Laws § 16-16-5	Any teacher that is employed at least half time, including job share teachers, shall remain a contributing member and receive credit toward retirement for their time of service.
Job Share	Tenn. Code Ann. § 8-30-320	Prior to the initiation of an action involving a reduction in the labor force within an agency, former career service employees who are currently in job-sharing positions shall, if possible, be given an opportunity to return to full-time employment.