



Workflex in the 21st Century Act

Background: The need for federal legislation to create one standard for Workflex—short for workplace flexibility—is urgent, because the modern workplace has changed and will continue to change rapidly. Employees need more options for getting their work done and taking time off, and employers need more certainty and predictability than the current patchwork of state and local paid leave laws provide. Here are some answers to commonly asked questions.

Issue: Even though most employers are already offering some form of paid leave and flexible work options, federal, state and local policymakers continue to pursue mandated approaches to these benefits. Ten states and more than 33 localities have adopted rigid, paid sick leave laws. Other policy initiatives include requiring employers to establish predictable work schedules or guaranteeing an employee's right to request a flexible work schedule or placing restrictions on the use of compressed work weeks. As a result, employers must now navigate a fragmented system of state and local paid-leave mandates and flexible work requirements, causing numerous challenges for employers and employees.

The Bill: Representative Mimi Walters (R-CA) introduced H.R. 4219, the Workflex in the 21st Century Act, that would expand paid leave and workplace flexibility opportunities for **all** employees. The bill amends the Employee Retirement Income Security Act (ERISA) to create a Qualified Flexible Work Arrangement plan (QFWA), allowing participating employers to follow a federal framework for paid leave and Workflex, as opposed to the complex, conflicting patchwork of state and local laws. The QFWA plan will pre-empt state and local paid leave laws and certain Workflex laws for employers that voluntarily choose to opt in to the plan and offer a minimum threshold of paid leave and a flexible work option to all employees. Key provisions of the bill are outlined below.

- To qualify as a QFWA Plan, the Plan would have to offer two major components to all full-time and part-time employees:
 - **Paid leave:** The number of hours of paid leave would be scaled to the size of the employer and an eligible employee's tenure with the employer.
 - **Flexible work arrangement:** The employer would offer at least one flexible work arrangement to each employee. The Plan would specify which positions are offered participation in any one of six workflex options to include: telework, job-sharing, compressed work schedules, predictable scheduling, flexible scheduling or a biweekly work week.
- Under a QFWA Plan, an employer may establish a biweekly work schedule, consisting of no more than 80 hours over a two-week period, and must pay overtime (1½ times regular rate) for all hours worked in excess of 80 hours in the two-week period. No work week may consist of more than 60 hours.
- Participating employers would satisfy all state and local paid sick leave requirements (NOT state family leave insurance laws).
- Federal contractors offering a QFWA plan would satisfy the Obama administration paid sick leave executive order.

Employers for Flexibility (E4F) Position: E4F believes that the United States must have a 21st century workplace flexibility policy that meets the needs of both employers and employees. E4F supports efforts to assist employees in meeting the dual demands of work and personal needs and believes that employers should be encouraged to voluntarily offer paid leave to their employees. Rather than promoting a one-size-fits-all government mandate, policy proposals should accommodate varying work environments, employee representation, industries and organizational size.