



House of Representatives

General Assembly

File No. 279

January Session, 2011

Substitute House Bill No. 6407

House of Representatives, March 29, 2011

The Committee on Labor and Public Employees reported through REP. ZALASKI of the 81st Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT ALLOWING EMPLOYERS TO PAY WAGES USING PAYROLL CARDS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-71b of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2011*):

3 (a) As used in this section:

4 (1) "Direct deposit" means the payment of an employee's wages by
5 credit to such employee's account in any bank which has agreed with
6 the employer to accept such wage accounts;

7 (2) "Payroll card" means a stored value card or other device used by
8 an employee to access wages from a payroll card account; and

9 (3) "Payroll card account" means an account that is directly or
10 indirectly established through an employer and to which transfers of
11 the employee's wages, salary or other compensation are made.

12 [(a)] (b) Each employer, by himself, his agent or representative, shall
13 pay weekly all [moneys] wages, salary or other compensation due each
14 employee on a regular pay day, designated in advance by the
15 employer [, in] using one or more of the following methods: (1) In cash,
16 (2) by negotiable checks, or [, upon an employee's written request, by
17 credit to such employee's account in any bank which has agreed with
18 the employer to accept such wage deposits] (3) by direct deposit or on
19 a payroll card, provided the requirements of subsection (e) of this
20 section are satisfied.

21 [(b)] (c) The end of the pay period for which payment is made on a
22 regular pay day shall be not more than eight days before such regular
23 pay day, provided, if such regular pay day falls on a nonwork day,
24 payment shall be made on the preceding work day.

25 [(c)] (d) This section shall not be construed to prohibit a local or
26 regional board of education and a recognized or certified exclusive
27 bargaining representative of its certified or noncertified employees
28 from including within their collective bargaining agreement a schedule
29 for the payment of wages to certified employees or noncertified
30 employees that differs from the requirements of subsections [(a)] (b)
31 and [(b)] (c) of this section.

32 (e) An employer may require direct deposit of an employee's wages,
33 salary or other compensation or the use of payroll cards to deliver
34 wages, salary or other compensation to employees provided:

35 (1) An employee hired before October 1, 2011, consents, in writing
36 or electronically, to the direct deposit of such employee's wages, salary
37 or other compensation or the payment of wages, salary or other
38 compensation using a payroll card.

39 (2) An employee hired on or after October 1, 2011:

40 (A) Is given a form that, in clear and conspicuous language, allows
41 the employee the option of receiving wages by direct deposit to his or
42 her personal account at a financial institution or through a payroll

43 card; and

44 (B) Is notified, in clear and conspicuous language, on the form
45 provided pursuant to subparagraph (A) of this subdivision, that failure
46 to return the form to the employer in time to process the employee's
47 initial wage payment with the information necessary to implement
48 direct deposit will be considered consent to receiving wages through a
49 payroll card.

50 (3) An employee shall be allowed to make at least two withdrawals
51 or transfers each week without charge for any amount up to and
52 including the full amount of the employee's wages, except that an
53 employee who is paid more frequently than weekly shall be allowed to
54 make at least one withdrawal or transfer each week without charge for
55 any amount up to and including the full amount of the employee's
56 wages for that week.

57 (4) None of the costs associated with paying wages using a payroll
58 card or establishing the payroll card account shall be deducted from or
59 charged against the wages, salary or other compensation delivered to
60 the employee by the employer or the card issuer during the employee's
61 employment with the employer and for sixty days after the
62 termination of such employment with the employer, including, but not
63 limited to, fees for the following: (A) Loading wages onto the payroll
64 card, (B) maintaining the payroll card account, (C) issuing the initial
65 payroll card to the employee, (D) issuing one free replacement card
66 upon request to the employee per calendar year, (E) closing the payroll
67 card account, (F) inactivity, (G) low balance or declined transactions, or
68 (H) other similar fees for the maintenance or use of the account.

69 (5) If the payroll card bears an expiration date: (A) The funds on the
70 card shall not expire, and (B) during the employee's employment with
71 the employer and for sixty days after the termination of such
72 employment with the employer, the employee shall be provided with a
73 replacement card, free of charge, prior to the expiration date.

74 (6) An employee shall be provided a means of checking his or her

75 account balances through an automated telephone system and
76 electronically without cost to the employee.

77 (7) Upon obtaining consent from the employee under subdivision
78 (1) of this subsection, or for an employee hired on or after October 1,
79 2011, but prior to an employer requiring the use of payroll cards to
80 deliver wages, salary or other compensation to employees upon the
81 institution of such requirement and thereafter upon hire, an employer
82 shall provide the employee with clear and conspicuous notice, in
83 writing, and in the language the employer normally uses to
84 communicate employment-related polices to his or her employees, of
85 the following items:

86 (A) The terms and conditions relating to the use of the payroll card,
87 including a list of fees that may be assessed by the card issuer;

88 (B) The methods available to employees for accessing their full
89 wages in lawful money of the United States without any fee to the
90 employee;

91 (C) The methods available to employees for checking their balances
92 in the payroll card account without cost; and

93 (D) A statement as to whether third parties may assess additional
94 fees.

95 (8) Neither the payroll card nor the payroll card account shall be
96 linked to any form of credit and, to the extent technologically feasible,
97 the payroll card account shall not allow for overdrafts. No overdraft
98 fee or interest on an overdraft may be imposed upon the employee.

99 (9) The employer shall furnish the employee with a statement of
100 deductions made from his or her wages for each pay period such
101 deductions were made in accordance with section 31-13a, as amended
102 by this act.

103 (10) The employee shall be permitted, on timely notice to the
104 employer and without cost, fear or reprisal, discrimination or other

105 penalty, to receive his or her wages, salary or other compensation by
106 direct deposit into a personal account at a financial institution. The
107 employer shall begin payment by direct deposit not later than fourteen
108 days after receiving both the employee's request and the account
109 information necessary to make the deposit.

110 (11) The employee shall be provided with an annual notice of the
111 terms and conditions relating to the use of the payroll card. Such notice
112 requirement may be satisfied by: (A) Electronic notice to the employee
113 at the electronic mail address to which the employee regularly
114 communicates other information related to the employee's
115 employment, (B) mailing the notice to an employee at his or her last-
116 known mailing address, (C) distributing the notice at work, or (D)
117 through other means used by the employer to distribute work-related
118 information and notices individually to employees.

119 (12) The employee shall be provided with at least thirty days'
120 advance notice of any changes to the terms and conditions of the
121 payroll card or payroll card account.

122 (13) The employee shall have access to a history of his or her payroll
123 account transactions that covers at least the sixty days prior to the date
124 the employee accesses such history. The employer shall provide
125 employees with either (A) a confidential means of accessing such
126 information electronically, along with the ability to print the
127 transaction history without cost, or (B) a means for the employee to
128 receive a written transaction history once a month from the card issuer
129 without cost. Any employee who requests a written transaction history
130 once a month from a card issuer shall only be required to make a
131 single request and need not repeat such request each month.

132 (14) Wages paid to an employee using a payroll card shall be a
133 deposit that is insured by the Federal Deposit Insurance Corporation
134 or the National Credit Union Administration on a pass-through basis
135 to the employee.

136 (15) A payroll card account that is used exclusively to receive

137 employee wages, salary or other compensation shall be exempt from
138 execution under section 52-367b in accordance with subsection (f) of
139 section 52-361a.

140 ~~[(d)]~~ (f) Nothing in this section shall be construed to apply to
141 employees swapping workdays or shifts as permitted under a
142 collective bargaining agreement.

143 (g) Nothing in this section shall be construed to preempt or override
144 the terms of any collective bargaining agreement effective prior to
145 October 1, 2011, with respect to methods of an employer's payment of
146 wages, salary or other compensation due to employees.

147 (h) Nothing in this section shall be construed to restrict the fees that
148 a payroll card issuer may charge the employer pursuant to a payroll
149 card agreement between the payroll card issuer and the employer,
150 provided those fees are not charged to or passed onto any employee.

151 Sec. 2. Section 31-13a of the general statutes is repealed and the
152 following is substituted in lieu thereof (*Effective October 1, 2011*):

153 (a) With each wage payment each employer shall furnish to each
154 employee, in writing or electronically, a record of hours worked, the
155 gross earnings showing straight time and overtime as separate entries,
156 itemized deductions and net earnings, except that the furnishing of a
157 record of hours worked and the separation of straight time and
158 overtime earnings shall not apply in the case of any employee with
159 respect to whom the employer is specifically exempt from the keeping
160 of time records and the payment of overtime under the Connecticut
161 Minimum Wage Act or the Fair Labor Standards Act.

162 (b) If the record of hours is furnished electronically pursuant to
163 subsection (a) of this section, the employer must provide a means for
164 each employee to access the information and print it without cost to
165 the employee. Any information contained in the record furnished
166 electronically pursuant to subsection (a) of this section shall
167 incorporate safeguards to ensure the confidentiality of an employee's

168 personal information.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	31-71b
Sec. 2	<i>October 1, 2011</i>	31-13a

LAB *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 12 \$	FY 13 \$
Comptroller	GF - Savings	Up to \$175,800	Up to \$175,800

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 12 \$	FY 13 \$
Various Municipalities	Savings	Potential	Potential

Explanation

The bill allows, but does not require, employers an additional option to pay their employees' wages, via a payroll card, which may result in a savings to the state and municipalities. The bill also allows employers to provide pay advices electronically, whereas current law requires paper pay advices. It is estimated that the state could save up to \$175,800 annually based on reduced paper and printing costs.¹ Additional potential savings may result to the extent that these payroll changes would reduce staffing. These savings would be offset by implementation costs of a self-service program to allow all employees to view their payroll information electronically.

The Department of Labor currently has a no-cost vendor contract to provide electronic payment of unemployment insurance benefits. The contract would allow piggybacking by other areas of state

¹ Based on full employee participation. Although there is no reference to direct deposit in the State Employees Bargaining Agent Coalition (SEBAC) collective bargaining agreements, a change to *requiring* direct deposit would have to be negotiated, as it is considered a change in working conditions.

government. As a result, it is assumed the issuance and administration of a payroll card program by the Office of the State Comptroller would be cost-neutral.

For each state employee who switches from paper paychecks to direct deposit, the state would save ~\$0.06 per pay cycle, with an additional savings of ~\$0.08 per pay cycle by switching to electronic pay advices. These savings are based on reduced costs for printing paper paychecks and pay advices and the associated reduction in envelopes and envelope insertions. The Office of the State Comptroller issues more than 75,000 pay advices (24 - 26 times annually) for the state's payroll. Currently 84% of state employees are on direct deposit and 16% still receive paper paychecks.

The Out Years

The annualized ongoing fiscal impact identified above, minus any upfront implementation costs, would continue into the future subject to inflation.

Sources: Commission on Enhancing Agency Outcomes Final Report

OLR Bill Analysis

sHB 6407

AN ACT ALLOWING EMPLOYERS TO PAY WAGES USING PAYROLL CARDS.

SUMMARY:

This bill allows employers to require that employees hired after October 1, 2011 be paid their wages, salary, or other compensation via direct deposit or a payroll card. Employees hired before that date must provide written or electronic consent to be paid in either form; withholding consent presumably allows them to continue receiving cash or check payments. Current law requires employers to pay their employees in cash or by negotiable check and allows them to pay via direct deposit if the employee submits a written request.

The bill establishes notice requirements and numerous other conditions, such as allowing two free withdrawals per week and limiting payroll card fees, which an employer must meet in order to require employees to be paid by direct deposit or payroll cards.

It also allows employers to provide employees with an electronic record of their hours worked, gross earnings, deductions, and net earnings, as long as (1) an employee can access and print it for free and (2) it incorporates safeguards to ensure confidentiality. Current law requires that the record be provided in writing.

The bill does not preempt or override any collective bargaining agreement in effect before October 1, 2011, and it does not restrict the fees a card issuer can charge an employer, as long as they are not passed on to the employee.

EFFECTIVE DATE: October 1, 2011

CONDITIONS TO REQUIRE DIRECT DEPOSIT OR PAYROLL CARDS

Under the bill, employers must meet several conditions in order to require employees to be paid via either direct deposit or a payroll card. The bill defines a “payroll card” as a stored value card or other device used by an employee to access wages from a payroll card account. A “payroll account” is one that an employer directly or indirectly establishes to transfer employee wages, salary, or other compensation. In practice, the cards operate like debit cards, although the bill establishes numerous provisions regulating their use. “Direct deposit” is the crediting of the employee’s wages to the employee’s account, in a bank that has agreed to accept the wages.

Notice Requirement

For any employee choosing between direct deposit or a payroll card, employers must provide notice of (1) the card’s term, conditions, and possible fees; (2) available methods of accessing the wages without fees; (3) available methods to check balances for free; and (4) whether third parties can assess additional fees. Employees hired before October 1, 2011 must receive the notice at the time of consent. Employees hired after that date must receive it before they are required to choose or, if the requirement is already in place, when they are hired.

Employers must also provide any employee hired after October 1, 2011 with a clear and conspicuous notice that (1) the employee must choose between direct deposit or a payroll card and (2) failure to choose or provide the information needed to implement a direct deposit in time to process the first payment will be considered consent to receive wages through a payroll card.

General Requirements

Under the bill, when employers requiring their employees to be paid through direct deposit or a payroll card:

1. employees must have at least two free withdrawals or transfers

per week and can withdraw or transfer their full amount of wages, and employees paid more frequently than weekly must be allowed at least one free withdrawal or transfer;

2. employees must have a free means to check their account balances by phone or electronically;
3. the employer must furnish employees with a statement of wage deductions for each pay period; and
4. employees must have access to at least a 60-day history of their payroll account transactions electronically or in a monthly written statement. Electronic access must be confidential and include the ability to print the history free of charge. An employee who wants a monthly written statement cannot be required to request it each month.

Payroll Card Requirements

In addition to the bill's general requirements, employers offering payroll cards must also provide the following.

1. Employees will not have to pay fees for using a payroll card or establishing a payroll card account while they are employed and for 60 days after their employment is terminated. The prohibited fees include costs for loading wages onto the card, maintaining the payroll account, issuing the initial card or one free replacement per year, closing the account, inactivity, low balance or declined transactions, or other similar maintenance or use fees.
2. The funds on a payroll card never expire, even if the card has an expiration date. Employees must be given a free replacement card before the expiration date during their employment and for 60 days after they leave employment.
3. The payroll card cannot be linked to any form of credit and, to the extent technologically feasible, cannot allow for overdrafts.

Overdraft fees cannot be imposed on employees.

4. An employee who provides timely notice can switch from a payroll card to direct deposit without cost, fear, reprisal, discrimination, or other penalty. An employer has 14 days after receiving notice and the employee's account information to begin making direct deposits.
5. Employees must receive annual notice of the payroll card's terms and conditions. The notice can be distributed via e-mail, regular mail, at work, or through any other means the employer uses to distribute work-related information and notices.
6. Employees must receive at least 30 days' notice of any changes to the payroll card or payroll account's terms and conditions.
7. The payroll card account must be insured by the FDIC or National Credit Union Administration on a pass-through basis to the employee.
8. A payroll card account used exclusively to receive employee wages, salary, or other compensation must be exempt from executions to the same extent as other forms of wage payments.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 10 Nay 1 (03/15/2011)