
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)