



# Senate

General Assembly

**File No. 68**

February Session, 2012

Substitute Senate Bill No. 155

*Senate, March 21, 2012*

The Committee on Labor and Public Employees reported through SEN. PRAGUE of the 19th Dist., Chairperson of the Committee on the part of the Senate, 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. (NEW) (*Effective October 1, 2012*) (a) As used in this  
2 section:

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

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, but does not  
9 mean a gift certificate, as defined in section 3-56a of the general  
10 statutes; and

11 (3) "Payroll card account" means an account that is directly or  
12 indirectly established through an employer and to which transfers of

13 the employee's wages, salary or other compensation are made and  
14 accessed through the use of a payroll card.

15 (b) An employer may require direct deposit of an employee's wages,  
16 salary or other compensation or the use of a payroll card account to  
17 deliver wages, salary or other compensation to employees, provided:

18 (1) An employee hired before October 1, 2012, consents, in writing  
19 or electronically, to the direct deposit of such employee's wages, salary  
20 or other compensation or the payment of wages, salary or other  
21 compensation using a payroll card account; and

22 (2) An employee hired on or after October 1, 2012:

23 (A) Is given a form that, in clear and conspicuous language, allows  
24 the employee the option of receiving wages, salary or other  
25 compensation by direct deposit to his or her personal account at a  
26 financial institution or to a payroll card account; and

27 (B) Is notified, in clear and conspicuous language, that failure to  
28 return the form provided pursuant to subparagraph (A) of this  
29 subdivision to the employer in time to process the employee's initial  
30 wage, salary or other compensation payment with the information  
31 necessary to implement direct deposit will be considered consent to  
32 receiving wages, salary or other compensation through a payroll card  
33 account.

34 (c) An employee shall be allowed to make at least one withdrawal  
35 or transfer each pay period without charge for any amount deposited  
36 to the payroll card account by the employer up to and including the  
37 full amount of the employee's wages, salary or other compensation for  
38 that pay period.

39 (d) None of the employer's costs associated with paying wages,  
40 salary or other compensation using a payroll card or establishing the  
41 payroll card account shall be deducted from or charged against the  
42 wages, salary or other compensation delivered to the employee.

43 (1) Neither the employer nor the card issuer shall charge the  
44 employee fees for (A) issuing a payroll card, (B) transferring wages,  
45 salary or other compensation onto the payroll card, (C) providing one  
46 replacement card per year, if needed, during the employee's  
47 employment with the employer and for sixty days after the  
48 termination of such employment with the employer, or (D) any  
49 inactivity or dormancy of the payroll card account.

50 (2) A payroll card may bear an expiration date, provided (A) the  
51 funds on the card do not expire, and (B) prior to the expiration date,  
52 the employee is provided with a replacement card, without charge,  
53 during the employee's employment with the employer and for sixty  
54 days after the termination of such employment with the employer.

55 (e) The payroll card account may escheat pursuant to section 3-57a  
56 of the general statutes.

57 (f) An employer shall provide the employee a means of checking his  
58 or her account balances in the payroll account through an automated  
59 telephone system and electronically without cost to the employee.

60 (g) Prior to obtaining consent from the employee under subdivision  
61 (1) of subsection (b) of this section, or, for an employee hired on or  
62 after October 1, 2012, prior to an employer requiring the use of payroll  
63 card accounts to deliver wages, salary or other compensation to the  
64 employee, the employer shall provide the employee with clear and  
65 conspicuous notice, in writing, and in the language the employer  
66 normally uses to communicate employment-related polices to his or  
67 her employees, of the following items:

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

70 (2) The methods available to the employee for accessing his or her  
71 full wages, salaries or other compensation in lawful money of the  
72 United States of America without any transaction fee to the employee  
73 for such access;

74 (3) The methods available to the employee for checking his or her  
75 balances in the payroll card account without cost;

76 (4) A statement as to whether third parties may assess additional  
77 fees; and

78 (5) The means, other than a payroll card account, by which an  
79 employee is entitled to receive payment of wages, salary or other  
80 compensation.

81 (h) Neither the payroll card nor the payroll card account shall be  
82 linked to any form of credit. No fees or interest may be imposed upon  
83 the employee for an overdraft or a declined transaction.

84 (i) The employer shall furnish the employee with a statement of  
85 deductions made from his or her wages, salary or other compensation  
86 for each pay period in accordance with section 31-13a of the general  
87 statutes, as amended by this act.

88 (j) Each employee with a payroll card account shall be permitted, on  
89 timely notice to the employer and without cost, reprisal,  
90 discrimination or other penalty, to receive his or her wages, salary or  
91 other compensation by direct deposit into a personal account at a  
92 financial institution. The employer shall begin payment by direct  
93 deposit not later than fourteen days after receiving both the  
94 employee's request and the account information necessary to make the  
95 deposit.

96 (k) Each employee with a payroll card shall be provided with access  
97 to the terms and conditions relating to the use of the payroll card,  
98 including the current schedule of fees. This requirement may be  
99 satisfied (1) by posting such terms and conditions clearly and  
100 conspicuously on a web site accessible to the employee at any time,  
101 and (2) upon the employee's request, (A) by providing electronic notice  
102 to the employee to the address at which the employer regularly  
103 communicates other types of employment information to the  
104 employee, (B) by mailing notice to the employee at his or her last-

105 known mailing address, (C) by distributing the notice directly to the  
106 employee in the employer's place of business, or (D) through other  
107 means used by the employer to distribute employment-related  
108 information and notices individually to employees.

109 (l) Each employee with a payroll card shall be provided written  
110 notice of any change in a term or condition required to be disclosed, at  
111 least twenty-one days before the effective date of such change, if such  
112 change would result in: (1) Increased fees for the employee, (2)  
113 increased liability for the employee, (3) fewer types of available  
114 electronic fund transfers, or (4) any stricter limitation on the frequency  
115 or dollar amount of transfers, except that such notice is not required if  
116 an immediate change in terms or conditions is necessary to maintain or  
117 restore the security of the payroll card, the payroll card account or an  
118 electronic fund transfer system. If such change is made permanent and  
119 disclosure would not jeopardize the security of such card, account or  
120 system, the employee shall be notified, in writing or electronically,  
121 within thirty days after making the change permanent.

122 (m) Each employee with a payroll card shall have access to a history  
123 of his or her payroll account transactions that covers at least the sixty  
124 days prior to the date the employee accesses such history. The  
125 employer shall provide each employee with either (1) a confidential  
126 means of accessing such information electronically, along with the  
127 ability to print the transaction history without cost, or (2) a means for  
128 the employee to receive a written transaction history once a month  
129 from the card issuer without cost.

130 (n) Wages, salary or other compensation paid to an employee using  
131 a payroll card shall be maintained in an account that is insured by the  
132 Federal Deposit Insurance Corporation or the National Credit Union  
133 Administration on a pass-through basis to the employee.

134 (o) A payroll card account that is used to receive only employee  
135 wages, salary or other compensation shall be exempt from execution  
136 under section 52-367b of the general statutes in accordance with  
137 subsection (f) of section 52-361a of the general statutes.

138 (p) All notices required by this section shall be clear and  
139 conspicuous.

140 (q) Nothing in this section shall be construed to preempt or override  
141 the terms of any collective bargaining agreement with respect to  
142 methods of an employer's payment of wages, salary or other  
143 compensation due to employees.

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

148 (s) The Labor Commissioner may adopt regulations, in accordance  
149 with the provisions of chapter 54 of the general statutes, to ensure  
150 compliance with this section.

151 Sec. 2. Subsection (a) of section 31-71b of the 2012 supplement to the  
152 general statutes is repealed and the following is substituted in lieu  
153 thereof (*Effective October 1, 2012*):

154 (a) (1) Except as provided in subdivision (2) of this subsection, each  
155 employer, or the agent or representative of an employer, shall pay  
156 weekly all [moneys] wages, salary or other compensation due each  
157 employee on a regular pay day, designated in advance by the  
158 employer [, in] using one or more of the following methods: (A) In  
159 cash, (B) by negotiable checks, or [, upon an employee's written  
160 request, by credit to such employee's account in any bank that has  
161 agreed with the employer to accept such wage deposits] (C) by direct  
162 deposit or on a payroll card, provided the requirements of section 1 of  
163 this act are satisfied.

164 (2) Unless otherwise requested by the recipient, the Comptroller  
165 shall, as soon as is practicable, pay all wages due each state employee,  
166 as defined in section 5-196, by electronic direct deposit to such  
167 employee's account in any bank, Connecticut credit union or federal  
168 credit union that has agreed with the Comptroller to accept such wage

169 deposits.

170 Sec. 3. Section 31-13a of the general statutes is repealed and the  
171 following is substituted in lieu thereof (*Effective October 1, 2012*):

172 (a) With each wage payment each employer shall furnish to each  
173 employe<sub>z</sub> in writing or electronically, a record of hours worked, the  
174 gross earnings showing straight time and overtime as separate entries,  
175 itemized deductions and net earnings, except that the furnishing of a  
176 record of hours worked and the separation of straight time and  
177 overtime earnings shall not apply in the case of any employee with  
178 respect to whom the employer is specifically exempt from the keeping  
179 of time records and the payment of overtime under the Connecticut  
180 Minimum Wage Act or the Fair Labor Standards Act.

181 (b) If the record of hours is furnished electronically pursuant to  
182 subsection (a) of this section, the employer shall provide a means for  
183 each employee to access and print the information without cost to the  
184 employee. Any information contained in the record furnished  
185 electronically pursuant to subsection (a) of this section shall  
186 incorporate safeguards to ensure the confidentiality of an employee's  
187 personal information.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2012</i>	New section
Sec. 2	<i>October 1, 2012</i>	31-71b(a)
Sec. 3	<i>October 1, 2012</i>	31-13a

**Statement of Legislative Commissioners:**

In section 1(b)(1) "." was deleted and "; and" was substituted in lieu thereof to comply with proper rules of grammar, in section 1(b)(2)(B) the comma after "subdivision" was deleted to comply with proper rules of grammar, in section 1(j) "fear of" was deleted to conform with the style of the general statutes, in section 1(k) technical changes were made to comply with proper rules of grammar and consistency, and in section 2(a)(1), "(1)", "(2)" and "(3)" were deleted and "(A)", "(B)" and

"(C)" were substituted in lieu thereof to conform with the style of the general statutes.

**LAB**      *Joint Favorable Subst.-LCO*

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:** None

**Municipal Impact:**

<b>Municipalities</b>	<b>Effect</b>	<b>FY 13 \$</b>	<b>FY 14 \$</b>
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. It allows employers to make payment by direct deposit or payroll card mandatory for all new employees.<sup>1</sup> The bill also clarifies that electronic pay advices may fulfill the employer's requirement under current law to provide written pay advices.<sup>2</sup> The bill codifies current practice for the state and has no associated fiscal impact.<sup>3</sup> The bill may result in savings to municipalities.

Currently 89% of state employees are on direct deposit and 11% still receive paper paychecks (primarily seasonal and temporary workers, including students). As current employees are still allowed the option of receiving paper checks, only new hires (who otherwise would have chosen paper checks) would be potentially impacted. This minimal impact has already been accounted for in the current biennial budget, however.

<sup>1</sup> Under current law, the Comptroller already may pay state employee wages by direct deposit, unless an employee opts out.

<sup>2</sup> Currently, 3,665 state employees view their pay advices on-line as opposed to receiving paper pay advices. The Comptroller's office has plans to expand e-pay to additional agencies by request.

<sup>3</sup> The biennium budget included savings in FY 13 as a result of implementing e-pay and direct deposit initiatives.

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 state agencies. 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. There is no cost to the Department of Labor to adopt or enforce regulations concerning this bill.

***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

*Sources: Office of the State Comptroller  
Department of Labor*

**OLR Bill Analysis****sSB 155*****AN ACT ALLOWING EMPLOYERS TO PAY WAGES USING PAYROLL CARDS.*****SUMMARY:**

This bill allows employers to pay their employees via payroll cards and sets numerous conditions for their use, such as notice requirements, allowing one free withdrawal per pay period, and limiting fees. This discretion includes requiring that employees hired after October 1, 2012, be paid via either direct deposit or a payroll card (with no option for cash or check payments), provided they meet additional notice requirements. 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 law requires employers to furnish employees with a written wage statement for each pay period showing gross earnings, deductions, and net earnings. The bill allows employers to provide this statement electronically, as long as (1) an employee can access and print it for free and (2) it incorporates safeguards to ensure confidentiality.

The bill does not preempt or override any collective bargaining agreement 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.

It also allows the labor commissioner to adopt enforcement regulations.

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EFFECTIVE DATE: October 1, 2012

## **PAYROLL CARDS**

Under the bill, a “payroll card” is a stored value card or other device, but not a gift certificate, used by an employee to access wages from a payroll card account. A “payroll card account” is one that an employer directly or indirectly establishes to transfer employee wages, salary, or other compensation, for the employee to access with a payroll card. In practice, the cards operate like debit cards that draw from an account into which the employer deposits the employee’s pay.

### ***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; (4) whether third parties can assess additional fees; and (5) the means, other than a payroll card, that an employee can be paid. Employees hired before October 1, 2012, must receive this notice prior to consenting to one of the payment methods. Employees hired after that date must receive it before they are required to choose between using direct deposit or a payroll card. All notices required by the bill must be clear and conspicuous.

### ***Payroll Card Requirements***

The bill establishes the following requirements for using payroll cards.

1. Employees must have at least one free withdrawal or transfer per pay period of up to the full amount of their wages, salary, or compensation.
2. Employees will not have to pay any of the employer’s costs for using payroll cards and accounts. Neither employers nor card issuers can charge employees fees for (a) issuing the cards; (b) transferring wages onto it; (c) providing a replacement card once per year, if needed, throughout the employee’s term of

employment and for 60 days after the employment is terminated; or (d) account inactivity or dormancy. Pay card issuers can charge employers fees, as long as they are not passed on to the employee.

3. The funds on a payroll card will not 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.
4. The funds in payroll card accounts can be presumed abandoned under the state's escheat laws (generally after three years of no activity).
5. Employers must provide their employees with a free means to check their account balances by phone or electronically;
6. The payroll card cannot be linked to any form of credit and no fees or interest can be charged for overdrafts or declined transactions.
7. An employee can switch from a payroll card to direct deposit without cost, fear, reprisal, discrimination, or other penalty. The employee must provide timely notice, and an employer has 14 days after receiving the notice and the employee's account information to begin making direct deposits.
8. Employees must have access to the payroll card's terms and conditions, including its current fee schedule. These can be posted on the Internet and, if the employee requests it, distributed via e-mail, regular mail, at work, or through any other means the employer uses to distribute work-related information and notices.
9. Employees must receive at least 21 days' notice of any changes to the payroll card or payroll account's terms and conditions that will (a) increase employee fees, (b) increase employee liability, (c) reduce the types of available electronic fund

transfers, or (d) tighten the frequency or dollar amount of transfers. The notice requirement does not apply if an immediate change is needed to secure or restore the card, account, or fund transfer system's security, although notice would be required within 30 days of such a change becoming permanent.

10. 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.
11. The payroll card account must be insured by the FDIC or National Credit Union Administration on a pass-through basis to the employee.
12. 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.

### **CONDITIONS TO REQUIRE DIRECT DEPOSIT OR PAYROLL CARDS**

Under the bill, an employer can require employees hired after October 1, 2012, to choose between direct deposit and a payroll card as their payment method, without an option for a traditional paycheck. Prior to requiring an employee to make this choice, the bill requires employers to provide 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.

### **COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable

Yea 9 Nay 1 (03/06/2012)