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.

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)