



House of Representatives

General Assembly

File No. 345

February Session, 2014

House Bill No. 5315

House of Representatives, April 3, 2014

The Committee on Labor and Public Employees reported through REP. TERCYAK of the 26th Dist., Chairperson of the Committee on the part of the House, that the 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, 2014*) (a) As used in this
2 section:

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

8 (2) "Payroll card" means a stored value card or other device used by
9 an employee to access wages from a payroll card account. Payroll card
10 does not mean a gift certificate, as defined in section 3-56a of the
11 general statutes; and

12 (3) "Payroll card account" means an account in any bank,

13 Connecticut credit union or federal credit union that is directly or
14 indirectly established through an employer and to which transfers of
15 the employee's wages, salary or other compensation are made and
16 accessed through the use of a payroll card.

17 (b) An employer may offer the use of payroll cards to deliver wages,
18 salary or other compensation to employees, provided each employee is
19 given a form that notifies the employee, in clear and conspicuous
20 language, that:

21 (1) The employee has the option of receiving wages, salary or other
22 compensation through any means allowed pursuant to section 31-71b
23 of the general statutes, as amended by this act; and

24 (2) Failure to notify the employer of the employee's option of
25 receiving such wages, salary or compensation within two weeks of
26 receiving the form will be considered consent to receiving wages,
27 salary or other compensation through a payroll card.

28 (c) Each employee with a payroll card shall be allowed to make at
29 least one withdrawal or transfer each pay period without charge for
30 any amount up to and including the full amount of the employee's
31 wages, salary or compensation for that pay period.

32 (d) (1) Neither the employer nor the payroll card issuer shall deduct
33 a fee from the wages, salary or other compensation on an employee's
34 payroll card or in an employee's payroll card account for: (A) Issuing a
35 payroll card; (B) transferring wages, salary or other compensation onto
36 the payroll card; (C) maintaining a payroll card account; (D) providing
37 one replacement card per calendar year upon the employee's request;
38 (E) closing the payroll card account; (F) low balance or declined
39 transactions; (G) inactivity or dormancy of the payroll card account; or
40 (H) other similar costs for the maintenance or use of a payroll card
41 account, during the employee's period of employment with the
42 employer and for sixty days after the employee's employment with the
43 employer has been terminated by either party.

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

49 (e) Each employer shall provide the employee a means of checking
50 his or her account balance through an automated telephone system
51 and electronically without cost to the employee.

52 (f) Each employer using payroll cards to deliver wages, salary or
53 other compensation to an employee, shall provide such employee with
54 clear and conspicuous notice, in writing, and in the language the
55 employer normally uses to communicate employment-related polices
56 to his or her employees, of the following items:

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

59 (2) The methods available to employees for accessing their full
60 wages, salaries or other compensation in lawful money of the United
61 States without any transaction fee to the employee for such access;

62 (3) The methods available to employees for checking their balances
63 in the payroll card account without cost; and

64 (4) A statement as to whether third parties may assess additional
65 fees.

66 (g) Neither the payroll card nor the payroll card account shall be
67 linked to any form of credit and, to the extent technologically feasible,
68 the payroll card account shall not allow for overdrafts. No fees or
69 interest may be imposed upon the employee for an overdraft or a
70 declined transaction.

71 (h) The employer shall furnish the employee with a statement of
72 deductions made from his or her wages, salary or other compensation
73 for each pay period in accordance with section 31-13a of the general

74 statutes, as amended by this act.

75 (i) Each employee with a payroll card shall be permitted, on timely
76 notice to the employer and without cost or fear of reprisal or
77 discrimination or the assessment of any penalty, to receive his or her
78 wages, salary or other compensation by direct deposit into a personal
79 account at any bank, Connecticut credit union or federal credit union
80 that has agreed with the employer to accept such deposits. The
81 employer shall begin payment by direct deposit not later than fourteen
82 days after receiving both the employee's request and the account
83 information necessary to make the deposit.

84 (j) Each employee with a payroll card shall be provided with annual
85 notice of the terms and conditions relating to the use of the payroll
86 card, including the current schedule of fees. This requirement may be
87 satisfied by (1) electronic notice to the address at which the employer
88 regularly communicates other types of employment information to the
89 employee, (2) mailing notice to the employee at his or her last-known
90 mailing address, (3) distributing the notice directly to the employee in
91 the employer's place of business, or (4) through other means used by
92 the employer to distribute employment-related information and
93 notices individually to employees.

94 (k) Each employer shall provide written notice to each employee
95 holding a payroll card of any change in a term or condition of such
96 payroll card not later than thirty days prior to the effective date of such
97 change.

98 (l) Each employee with a payroll card shall have access to a history
99 of his or her payroll card account transactions spanning a period of not
100 less than sixty days prior to the date the employee accesses such
101 history. The employer shall provide employees with either (1) a
102 confidential means of accessing such information electronically, along
103 with the ability to print the transaction history without cost, or (2) a
104 means for the employee to receive a written transaction history once a
105 month from the card issuer without cost.

106 (m) Wages, salary or other compensation paid to an employee using
107 a payroll card shall be deposited in a payroll card account that is
108 insured by the Federal Deposit Insurance Corporation or the National
109 Credit Union Administration.

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

114 (o) Nothing in this section shall be construed to restrict the fees that
115 a payroll card issuer may charge the employer pursuant to a payroll
116 card agreement between the payroll card issuer and the employer,
117 provided those fees are not charged to or passed onto any employee.

118 Sec. 2. Subsection (a) of section 31-71b of the 2014 supplement to the
119 general statutes is repealed and the following is substituted in lieu
120 thereof (*Effective October 1, 2014*):

121 (a) (1) Except as provided in subdivision (2) of this subsection, each
122 employer, or the agent or representative of an employer, shall pay
123 weekly all [moneys] wages, salary or other compensation due each
124 employee on a regular pay day, designated in advance by the
125 employer [, in] using one or more of the following methods: (1) In cash,
126 (2) by negotiable checks, [or, upon an employee's written request, by
127 credit to such employee's account in any bank that has agreed with the
128 employer to accept such wage deposits] (3) by direct deposit, or (4) by
129 payroll card, provided the requirements of section 1 of this act are
130 satisfied.

131 (2) Unless otherwise requested by the recipient, the Comptroller
132 shall, as soon as is practicable, pay all wages due each state employee,
133 as defined in section 5-196, by electronic direct deposit to such
134 employee's account in any bank, Connecticut credit union or federal
135 credit union that has agreed with the Comptroller to accept such wage
136 deposits.

137 Sec. 3. Section 31-13a of the general statutes is repealed and the
 138 following is substituted in lieu thereof (*Effective October 1, 2014*):

139 (a) With each wage payment each employer shall furnish to each
 140 employee, in writing or electronically, a record of hours worked, the
 141 gross earnings showing straight time and overtime as separate entries,
 142 itemized deductions and net earnings, except that the furnishing of a
 143 record of hours worked and the separation of straight time and
 144 overtime earnings shall not apply in the case of any employee with
 145 respect to whom the employer is specifically exempt from the keeping
 146 of time records and the payment of overtime under the Connecticut
 147 Minimum Wage Act or the Fair Labor Standards Act.

148 (b) If the record of hours is furnished electronically pursuant to
 149 subsection (a) of this section, the employer shall provide a means for
 150 each employee to access and print his or her gross earnings showing
 151 straight time and overtime as separate entries, itemized deductions
 152 and net earnings, without cost to the employee. Any information
 153 contained in the record furnished electronically pursuant to subsection
 154 (a) of this section shall incorporate safeguards to ensure the
 155 confidentiality of an employee's personal information.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2014</i>	New section
Sec. 2	<i>October 1, 2014</i>	31-71b(a)
Sec. 3	<i>October 1, 2014</i>	31-13a

LAB *Joint Favorable*

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:

Municipalities	Effect	FY 15 \$	FY 16 \$
Various Municipalities	Savings	Potential	Potential

Explanation

The bill allows employers to pay their employees via payroll cards under certain conditions. This does not result in any fiscal impact to the state, but does result in a potential savings associated with reduced printing and mailing costs to any municipality that may choose to implement such a program.

The state currently provides electronic access for employees to their itemized earnings summary. In addition, the state does not currently provide wages through payroll cards. As the bill does not require employers to provide wages by payroll card, this provision does not result in a fiscal impact to the state.

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

The Out Years

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

OLR Bill Analysis**HB 5315*****AN ACT ALLOWING EMPLOYERS TO PAY WAGES USING PAYROLL CARDS.*****SUMMARY:**

This bill allows employers to pay their employees through payroll cards if the employer, cards, and payroll card accounts meet certain conditions. Among other things, employers must provide a clear and conspicuous written notice that employees (1) can also be paid in cash, by check, or through direct deposit and (2) are deemed to have consented to being paid through a payroll card unless they notify their employers of how they wish to be paid within two weeks after receiving the notice.

Under the bill, a payroll card is a stored value card (similar to a bank account debit card) or other device that allows an employee to access wages from a payroll card account. It does not include gift certificates or gift cards. A payroll card account is a bank or credit union account established through an employer to transfer an employee's wages, salary, or other compensation.

Regardless of how they are paying wages, the bill 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 also eliminates a current requirement that an employee submit a written request to have his or her wages paid by direct deposit. (Presumably, an employee must still provide his or her bank account information voluntarily in order to be paid through direct deposit.)

EFFECTIVE DATE: October 1, 2014

PAYROLL CARD CONDITIONS

The bill establishes the following additional conditions and requirements for employers using payroll cards.

1. Employees must be allowed at least one free withdrawal per pay period for up to the employee's full amount of wages for that period.
2. Employers must allow employees, with timely notice, to switch from a payroll card to direct deposit without cost, fear of reprisal, or any penalty. The switch must occur within 14 days after the employer receives the employee's request and necessary account information.
3. The employer and payroll card issuer cannot deduct a fee from an employee's pay or payroll card account for (a) issuing the card; (b) transferring wages, salary, or other compensation onto the card; (c) maintaining the card's account; (d) providing one replacement card per calendar year at the employee's request; (e) closing the account; (f) a low balance or declined transaction; (g) account inactivity or dormancy; or (h) other similar costs for maintaining or using an account while the employee is employed and for at least 60 days after his or her employment ends.
4. The payroll card and payroll card account cannot be linked to any form of credit and, to the extent technologically feasible, cannot allow for overdrafts. Employees cannot be charged fees or interest for overdrafts or declined transactions.
5. A payroll card issuer can charge an employer fees pursuant to an agreement between the issuer and employer, but these fees cannot be charged or passed on to any employee.
6. Employers must provide clear and conspicuous written notice in

- the language normally used to communicate employment-related policies on (a) the payroll card's terms and conditions, including a list of fees that the card issuer could assess; (b) how employees can access their wages, salaries, or other compensation for free; (c) how employees can check their card's account balance for free; and (d) whether third parties can assess additional fees.
7. Employees with payroll cards must receive an annual notice of the card's terms and conditions, including fees, through (a) an electronic notice to an address the employer regularly uses to communicate with the employee, (b) regular mail to the employee's last-known address, (c) distribution at work, or (d) any other means the employer regularly uses to distribute employment-related information.
 8. Employers must provide each employee with a payroll card with written notice about any change in the cards terms or conditions no later than 30 days before the change becomes effective.
 9. Employers must provide a free way for employees to check their account balances electronically or through an automated phone system.
 10. Employees with payroll cards must have access to a history of their past account transactions covering at least the past 60 days. Employers must provide employees with a free (a) confidential way to access and print this history electronically or (b) monthly written transaction history.
 11. A card can have an expiration date but (a) the funds on the card cannot expire and (b) the employee must be given a free replacement card before the expiration date. This requirement applies while the employee is employed and for at least 60 days after his or her employment ends.
 12. Payroll card accounts must be insured by the Federal Deposit

Insurance Corporation or the National Credit Union Administration.

The bill extends to payroll card accounts that only receive employee wages, salary, or other compensation, an exemption from executions to the same extent as currently allowed for wage executions (up to \$348 of wages per week).

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable

Yea 10 Nay 0 (03/18/2014)