



# Senate

General Assembly

**File No. 54**

February Session, 2016

Substitute Senate Bill No. 211

*Senate, March 15, 2016*

The Committee on Labor and Public Employees reported through SEN. GOMES of the 23rd 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, 2016*) (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 that is deposited into such  
5 employee's account in any bank, Connecticut credit union or federal  
6 credit union that has agreed with the employer to accept such wages,  
7 salary or 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 and that is  
10 redeemable at the employee's election at multiple unaffiliated  
11 merchants or service providers, bank branches or automated teller  
12 machines. Payroll card does not mean a gift certificate, as defined in

13 section 3-56a of the general statutes; and

14 (3) "Payroll card account" means an account in any bank,  
15 Connecticut credit union or federal credit union that is directly or  
16 indirectly established through an employer to which transfers of the  
17 employee's wages, salary or other compensation are made and  
18 accessed through the use of a payroll card and that is subject to the  
19 requirements of Regulation E, 12 CFR Part 1005, as from time to time  
20 amended.

21 (b) An employer may offer the use of payroll cards to deliver wages,  
22 salary or other compensation to employees, provided:

23 (1) Each employee has the option of receiving wages, salary or other  
24 compensation by direct deposit and by negotiable check; and

25 (2) The employee voluntarily and expressly authorizes, in writing or  
26 electronically, the payment of wages, salary or other compensation by  
27 means of a payroll card account without any intimidation, coercion or  
28 fear of discharge or reprisal from the employer for the employee's  
29 refusal to accept such payment of wages, salary or other compensation  
30 by means of a payroll card account. No employer shall make the  
31 payment of wages, salary or other compensation by means of a payroll  
32 card account a condition of employment or a condition for the receipt  
33 of any benefit or other form of remuneration for any employee.

34 (c) Prior to an employee electing to receive wages, salary or other  
35 compensation by means of a payroll card account, each employer  
36 using payroll card accounts to deliver wages, salary or other  
37 compensation to an employee shall provide such employee with clear  
38 and conspicuous notice, in writing, and in the language the employer  
39 normally uses to communicate employment-related policies to his or  
40 her employees, of the following:

41 (1) That payment of wages, salary or other compensation by means  
42 of a payroll card account is voluntary and the employee may instead  
43 choose to receive wages, salary or other compensation by either direct

44 deposit or by negotiable check;

45 (2) The terms and conditions relating to the use of the payroll card,  
46 including an itemized list of fees that may be assessed by the card  
47 issuer and their amounts;

48 (3) The methods available to employees both for accessing their full  
49 wages, salary or other compensation in lawful money of the United  
50 States without any transaction fee to the employee for such access and  
51 for avoiding or minimizing fees for use of the payroll card, including,  
52 but not limited to, a clear and conspicuous notice describing how to  
53 access wages, salary or other compensation without cost at automated  
54 teller machines, depository financial institutions or other convenient  
55 locations;

56 (4) The methods available to employees for checking their balances  
57 in the payroll card account without cost; and

58 (5) A statement indicating that third parties may assess additional  
59 fees.

60 (d) Each pay period, but not more frequently than each week, an  
61 employee with a payroll card shall be allowed to make at least three  
62 withdrawals from the payroll card account at no cost to the employee,  
63 one of which permits withdrawal of the full amount of the employee's  
64 net wages, salary or other compensation for the pay period at a  
65 depository financial institution or other convenient location.

66 (e) None of the employer's costs associated with paying wages,  
67 salary or other compensation using a payroll card or establishing the  
68 payroll card account shall be deducted from or charged against the  
69 wages, salary or other compensation delivered to the employee.

70 (f) (1) Neither the employer nor the payroll card issuer shall assess a  
71 fee to the employee for any of the following, regardless of how such  
72 fee is labeled: (A) Issuing the initial payroll card; (B) transferring  
73 wages, salary or other compensation from the employer to the payroll  
74 card account; (C) maintaining a payroll card account; (D) providing

75 one replacement card per calendar year upon the employee's request;  
76 (E) closing the payroll card account; (F) maintaining a low balance; (G)  
77 inactivity or dormancy of the payroll card account for the first twelve  
78 months of inactivity or dormancy; or (H) point-of-sale transactions.

79 (2) A payroll card may bear an expiration date, provided (A) the  
80 funds in the payroll card account do not expire; and (B) prior to the  
81 expiration date, the employee is provided with a replacement card,  
82 without charge, during the period when wages, salary or other  
83 compensation are applied to the payroll card account by the employer  
84 and for sixty days after the last transfer of wages, salary or other  
85 compensation is applied to the payroll card account by the employer.

86 (3) The payroll card account may escheat to the state pursuant to the  
87 provisions of section 3-57a of the general statutes.

88 (g) Each employer shall provide the employee a means of checking  
89 his or her payroll card account balance through an automated  
90 telephone system, automated teller machine or electronically without  
91 cost to the employee twenty-four hours per day and seven days per  
92 week.

93 (h) Neither the payroll card nor the payroll card account shall be  
94 linked to any form of credit and, to the extent technologically feasible,  
95 the payroll card account shall not allow for overdrafts. No fees or  
96 interest may be imposed upon the employee for an overdraft or the  
97 first two declined transactions of each month.

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

102 (j) Each employee with a payroll card shall be permitted, on timely  
103 notice to the employer and without cost or fear of reprisal or  
104 discrimination or the assessment of any penalty, to receive his or her  
105 wages, salary or other compensation by direct deposit into a personal

106 account at any bank, Connecticut credit union or federal credit union  
107 that has agreed to accept such deposits or by negotiable check. The  
108 employer shall begin payment by direct deposit not later than fourteen  
109 days after receiving both the employee's request and the account  
110 information necessary to make the deposit, or by check not later than  
111 fourteen days after receiving the employee's request.

112 (k) Consumer protections, including transaction histories and  
113 advanced notice of changes in terms and conditions, shall be provided  
114 to each employee with a payroll card in accordance with Regulation E,  
115 12 CFR Part 1005, as from time to time amended. Notwithstanding the  
116 foregoing, employees shall be provided the option to receive, on a  
117 monthly basis, automatic written transaction histories at no cost to the  
118 employee for a term of at least twelve months or until such option is  
119 cancelled by the employee. Renewal of the option to receive written  
120 transaction histories at no cost to the employee may be required by the  
121 employer upon expiration of the initial twelve-month term, and each  
122 twelve-month term thereafter.

123 (l) The payroll card shall be associated with an automated teller  
124 machine network that assures the availability of a substantial number  
125 of in-network automated teller machines in the state.

126 (m) Wages, salary or other compensation paid to an employee using  
127 a payroll card shall be deposited in a payroll card account that is  
128 insured by the Federal Deposit Insurance Corporation or the National  
129 Credit Union Administration on a pass-through basis to the employee.

130 (n) A payroll card account that is used to receive only employee  
131 wages, salary or other compensation shall be exempt from execution or  
132 attachment (1) by creditors of the employer, and (2) under section 52-  
133 367b of the general statutes.

134 (o) All notices required by the provisions of this section shall be  
135 clear and conspicuous.

136 (p) Nothing in this section shall be construed to preempt or override

137 the terms of any collective bargaining agreement with respect to the  
138 methods by which an employer provides payment of wages, salary or  
139 other compensation to employees.

140 (q) Nothing in this section shall be construed to restrict the fees that  
141 a payroll card issuer may charge the employer pursuant to a payroll  
142 card agreement between the payroll card issuer and the employer,  
143 provided those fees are not charged to or passed on to any employee.

144 (r) The employer's obligations to the employee pursuant to the  
145 provisions of this section shall cease sixty days after the employer-  
146 employee relationship has ended.

147 (s) The Labor Commissioner, within available appropriations, may  
148 conduct a study of payroll card usage and the actual incidence of  
149 associated fees. Not later than October 1, 2018, the commissioner shall  
150 determine whether such a study shall be conducted, and shall report  
151 such determination, or the status or results of such a study if such a  
152 study has already been initiated or conducted, in accordance with the  
153 provisions of section 11-4a of the general statutes, to the joint standing  
154 committee of the General Assembly having cognizance of matters  
155 relating to labor.

156 (t) The Labor Commissioner may adopt regulations, in accordance  
157 with the provisions of chapter 54 of the general statutes, to ensure  
158 compliance with this section.

159 Sec. 2. Subsection (a) of section 31-71b of the general statutes is  
160 repealed and the following is substituted in lieu thereof (*Effective*  
161 *October 1, 2016*):

162 (a) (1) Except as provided in subdivision (2) of this subsection, each  
163 employer, or the agent or representative of an employer, shall pay  
164 weekly all [moneys] wages, salary or other compensation due each  
165 employee on a regular pay day, designated in advance by the  
166 employer [, in cash,] using one or more of the following methods: (A)  
167 Cash; (B) by negotiable checks; [or, upon an employee's written

168 request, by credit to such employee's account in any bank that has  
169 agreed with the employer to accept such wage deposits] (C) upon an  
170 employee's written or electronic request, by direct deposit; or (D) by  
171 payroll card, provided the requirements of section 1 of this act are  
172 satisfied.

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

179 Sec. 3. Section 31-13a of the general statutes is repealed and the  
180 following is substituted in lieu thereof (*Effective October 1, 2016*):

181 (a) With each wage payment each employer shall furnish to each  
182 employee, in writing or, with the employee's explicit consent,  
183 electronically, a record of hours worked, the gross earnings showing  
184 straight time and overtime as separate entries, itemized deductions  
185 and net earnings, except that the furnishing of a record of hours  
186 worked and the separation of straight time and overtime earnings shall  
187 not apply in the case of any employee with respect to whom the  
188 employer is specifically exempt from the keeping of time records and  
189 the payment of overtime under the Connecticut Minimum Wage Act  
190 or the Fair Labor Standards Act

191 (b) If the record of hours is furnished electronically pursuant to  
192 subsection (a) of this section, the employer shall provide a means for  
193 each employee to securely, privately and conveniently access and print  
194 such record. The employer shall incorporate reasonable safeguards  
195 regarding any information contained in the record furnished  
196 electronically pursuant to subsection (a) of this section to protect the  
197 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, 2016</i>	New section
Sec. 2	<i>October 1, 2016</i>	31-71b(a)
Sec. 3	<i>October 1, 2016</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:** None

**Municipal Impact:**

Municipalities	Effect	FY 17 \$	FY 18 \$
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.

The bill also allows the labor commissioner to study payroll card use and the actual incidence of associated fees and report to the legislature. It is anticipated that, should such a study be undertaken, it would be accommodated utilizing existing staff and at no additional cost to the agency.

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****sSB 211*****AN ACT ALLOWING EMPLOYERS TO PAY WAGES USING PAYROLL CARDS.*****SUMMARY:**

This bill allows employers to pay their employees through “payroll cards” under certain conditions. An employee must voluntarily and expressly authorize, in writing or electronically, that he or she wishes to be paid with a card without any intimidation, coercion, or fear of discharge or reprisal from the employer. No employer can require payment through a card as a condition of employment or for receiving any benefits or other type of remuneration. In addition:

1. employers must give employees the option to be paid by check or through direct deposit;
2. the card must be associated with an ATM network that assures the availability of a substantial number of in-network ATMs in the state;
3. employees must be able to make at least three free withdrawals per pay period; and
4. none of the employer’s costs for using payroll cards can be passed on to employees.

Under the bill, a “payroll card” is a stored value card (similar to a bank account debit card) or other device, but not a gift certificate, that allows an employee to access wages from a payroll card account. The employee can choose to redeem it at multiple unaffiliated merchants or service providers, bank branches, or ATMs. A “payroll card account” is a bank or credit union account (1) established through an employer to transfer an employee’s wages, salary, or other compensation (pay);

(2) accessed through a payroll card; and (3) subject to federal consumer protection regulations on electronic fund transfers.

The bill allows the labor commissioner to (1) adopt regulations to ensure compliance with the bill's payroll card provisions and (2) within available appropriations, study payroll card use and the actual incidence of associated fees. By October 1, 2018, he must determine whether to conduct the study and report his decision and the study's status or results, if applicable, to the Labor and Public Employees Committee.

The bill also allows employers, regardless of how they pay their employees, to provide them with an electronic record of their hours worked, gross earnings, deductions, and net earnings (i.e., pay stub). To do so, the (1) employee must explicitly consent; (2) employer must provide a way for the employee to access and print the record securely, privately, and conveniently; and (3) employer must incorporate reasonable safeguards to protect the confidentiality of the employee's personal information.

Lastly, current law allows employers to pay employees through direct deposit only on an employee's written request. The bill allows an employee's request for direct deposit to also be an electronic request.

EFFECTIVE DATE: October 1, 2016

### **PAYROLL CARD CONDITIONS**

The bill establishes numerous conditions and requirements for employers using payroll cards. It specifies that none of them preempt or override a collective bargaining agreement's terms on how an employer pays its employees.

#### ***Notice Requirements***

Before an employee chooses to be paid through a payroll card, his or her employer must provide the following clear and conspicuous written notice, in the language the employer normally uses to

communicate employment-related policies to employees:

1. that being paid through a payroll card is voluntary and the employee can instead choose to be paid by direct deposit or check;
2. the terms and conditions related to using the card, including an itemized list of fees that the card issuer may assess and their amounts;
3. how employees can (a) access their pay in U.S. currency without a transaction fee; (b) avoid or minimize fees for using the cards, including clear and conspicuous notice describing how to access their pay for free at ATMs, depository financial institutions (i.e., banks, savings and loan associations, or credit unions), or other convenient locations; and (c) check their card account balances for free; and
4. a statement indicating that third parties may assess additional fees.

Consumer protections under the federal consumer protection regulations for electronic fund transfers, including transaction histories and advanced notice of changes in terms and conditions, must be provided to all employees who have a payroll card. In addition, employees must have the option to receive free monthly automatic written transaction histories for at least 12 months, or until the employee cancels the option. An employer can require the employee to renew the option at the end of each 12-month term.

All notices provided about payroll cards and their accounts must be clear and conspicuous.

### ***Employer Requirements***

Employers paying with payroll cards must (1) give employees a free way to check their payroll card account balances at any time through an automated phone system, ATM, or electronically and (2) give

employees a statement of payroll deductions for each pay period, as required by law.

They must also allow employees who provide timely notice to switch from a payroll card to direct deposit or check without cost, fear of reprisal or discrimination, or any penalty. The switch must occur within 14 days after the employer receives the employee's request and, if applicable, the necessary account information.

An employer's obligations to an employee under the bill's payroll card provisions end 60 days after the employer no longer employs the employee.

### ***Card & Account Conditions***

Payroll cards and their accounts cannot be linked to any form of credit and, if technologically feasible, must not allow for overdrafts. Employees cannot be charged fees or interest for an overdraft or for the first two declined transactions of each month.

The card must be associated with an ATM network that assures the availability of a substantial number of in-network ATMs in the state.

A payroll card account must be insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration on a pass-through basis to the employee (i.e., the employee is reimbursed for any losses).

A card may have an expiration date if the (1) funds in the card's account do not expire and (2) employee is given a free replacement card before the expiration date. The requirement to provide a free replacement card applies for 60 days after the employer last transfers pay to the card.

Under the bill, payroll card accounts that receive only employee pay are exempt from executions or attachments by the employer's creditors (legal procedures to collect the employer's debts). They are also exempt from executions against debts due from a financial institution

(legal procedures to collect the employee's debts directly from his or her bank account). The law, unchanged by the bill, also allows wage executions against an employee's wages (legal procedures to collect an employee's debts by requiring the employer to deduct payments from the employee's wages and remit them to the creditor).

***Access & Usage***

Each pay period, but no more than weekly, employees must be able to make at least three free withdrawals from their payroll card account at a depository financial institution or other convenient location. One of the free withdrawals must allow for the withdrawal of the full amount of the employee's net pay for the pay period.

A payroll card account may escheat to the state under the law for determining when property held by banking or financial organizations is presumed abandoned.

***Fees and Charges***

The bill generally prohibits employers from passing their costs for using payroll cards to employees. Specifically, none of the employer's costs from paying employees with payroll cards or establishing payroll accounts can be deducted from or charged against an employee's pay. In addition, the bill prohibits employers and payroll card issuers from assessing a fee on an employee, regardless of how it is labeled, for:

1. issuing an initial card,
2. transferring pay from the employer to a card account,
3. maintaining a card account,
4. providing one replacement card per calendar year at the employee's request,
5. closing a payroll card account,
6. maintaining a low balance,

- 7. not using an account for up to 12 months, or
- 8. point of sale transactions.

The bill specifies that it does not restrict the fees that a payroll card issuer may charge the employer under their payroll card agreement, as long as they are not passed on to an employee.

**COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 13    Nay 0    (03/01/2016)