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S.B. 211 -- Payroll Cards

Labor and Public Employees Committee public hearing -- February 25, 2016

Testimony of Raphael L. Podolsky

Recommended Committee action: **ADOPTION (with technical amendment)**

As a long-time consumer advocate, I urge approval of this bill. The bill allows employers, with the consent of the employee, to pay wages through a payroll card (i.e., a debit card) to employees who do not want to be paid by either direct deposit or paper check. I have been involved in extended negotiations with the industry (since 2011) to try to make sure that any bill adopted in Connecticut provides as many protections for consumer/employees as possible. The bill's primary benefit is for employees who do not have a bank account (and therefore cannot use direct deposit) and end up using expensive check-cashing services instead. I believe that S.B. 211, the product of these negotiations, is sufficiently protective as to be worth adopting. I am told by the National Consumer Law Center, which reviewed the bill at my request, that it will be one of the best payroll card bills in the country. Last year it passed the House unanimously but was never called in the Senate.

From my perspective as a consumer advocate, the two most important aspects of the bill are:

(1) The use of the card is voluntary for the employee. The employee must opt in and cannot be required to accept a card without his or her consent. More important, the employee can opt out at any time without fee or penalty on 14 days' notice. This means that an employee who is unhappy with the card can at any time switch back to a paper check or direct deposit. Early versions of this bill in 2011 and 2012 did not contain this provision.

(2) Many of the fees that payroll cards impose on customers in some other states are prohibited or limited by this bill. Most important, the employee is guaranteed at least three free withdrawals per pay period, including one for the full amount of wages if the employee wants to take the entire paycheck at once. If you look at the bill's language, you will see that there are also many other fee prohibitions, either total (e.g., for account maintenance, checking of account balances, monthly statements, and cash advances at points of service, i.e., stores) or

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limited (e.g., for two declined transactions per month and for one replacement card per year). The bill prohibits any kind of lending (such as payday loans, which are extremely high-cost) from being connected to the card and prohibits creating debt through overdrafts (i.e., the card must decline the transaction if there is insufficient money in the account rather than advance it as a loan).

The bill is not perfect, and there are additional protections that I would have liked to see included. There remain concerns that, since all fees are not prohibited, some cards may impose more fees than are fair. There are also questions about the way in which some cards may be able to limit free ATM access. The ultimate employee protection, however, is that an employee can return to a paper check without cost at any time. The bill also authorizes the Department of Labor to conduct (or request funding for, if needed) a study of the incidence of fees if that becomes an issue in practice. Notwithstanding these concerns, I think that on balance the bill is a fair compromise and therefore worth adopting.

In conjunction with the sponsors of the bill, we support a necessary technical amendment to correct a few parts of the bill where the raised committee version of the bill varies from the agreed-upon draft.