Legislative Analysis

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ELECTRONIC PAYMENT OF WAGES/STATE CONTRACTS

Senate Bills 850 and 851 (Substitutes H-1)
Sponsor: Sen. Jason E. Allen
Senate Committee: Local, Urban and State Affairs
House Committee: Government Operations

First Analysis (9-22-04)

BRIEF SUMMARY: The bills would provide for the automatic payment of wages by direct deposit, electronic funds transfer, or debit card (although some employees could opt out); and would require the state to use electronic funds transfer when purchasing goods or services under contracts beginning in 2005 or 2006 (depending on the department).

FISCAL IMPACT: Senate Bill 850 would have an indeterminate amount of savings to the state if payroll and payments to employees and elected and appointed officials were required to be made by electronic funds transfer and indeterminate savings from using electronic funds transfer for purchasing goods and services. Senate Bill 851 would have no fiscal impact on the state or on local governments units. (See additional information below.)

THE APPARENT PROBLEM:

Public Act 390 of 1978 allows employers to pay wages in U.S. currency or by negotiable check or draft. The act prohibits an employer from depositing an employee's wages in a financial institution without the full, free, and written consent of the employee, obtained without intimidation, coercion, fear of discharge or reprisal for refusal to permit the deposit. Human resource managers say that the direct depositing of wages through the electronic transfer of funds results in large savings for employers. It is offered by most employers and is a widely used option by employees. Legislation has been introduced to make this the standard method of payment.

THE CONTENT OF THE BILL:

Senate Bill 850 would amend the Management and Budget Act (MCL 18.2283a) to require that all payroll and payments to *nonclassified state government employees and elected and appointed state officials* be paid by electronic funds transfer (EFT). The bill also provides that all contracts that the state entered into for the purchase of goods or services would have to require payment by EFT.

The above requirements would begin on October 1, 2005, except for the Department of Community Health and the Family Independence Agency, which would have to comply with the EFT requirements by October 1, 2006.

The bill also encourages the Department of Management and Budget to implement the EFT requirement prior to October 1, 2005.

Senate Bill 851 would amend Public Act 390 of 1978 (MCL 408.476) to strike the prohibition on paying wages by direct deposit or electronic transfer without the written permission of the employee. The bill would permit employers to pay wages to employees by direct deposit or electronic transfer, or by payroll debit card.

If the employer elects to pay wages through direct deposit or electronic transfer, or payroll debit card, the following conditions would apply:

- The employer would have to provide employees with notice of a decision to pay wages through these methods and a period of six weeks for its current employees to establish an account at a financial institution to accept the deposit or transfer of wages.
- The employer could not pay wages via direct deposit or electronic transfer or payroll debit card if the employee provides the employer with a written objection.
- The employer would be prohibited from requiring employees to pay any fees or costs incurred by the employers to pay wages via direct deposit or electronic transfer or payroll debit card.
- An employer would have to provide a written statement of hours, wages, and deduction if requested by the employee

BACKGROUND INFORMATION:

House Bill 5599 of the current session addresses the same issue and amends the same statute as Senate Bill 851. It is currently on the House calendar. See the House Fiscal Agency analysis dated 4-28-04.

FISCAL INFORMATION:

There would be an indeterminate amount of savings to the state if payroll and payments to employees and elected and appointed officials were required to be made by electronic funds transfer. The cost to the state for each warrant (production and mailing cost) is $0.59. The cost for each EFT transaction is $0.12. The net savings would be $0.47 per transaction. The amount of savings would be less if wage statements were still delivered to employees, i.e. employees who do not have Internet access to self-service accounts.

There would be an indeterminate amount of savings to the state if payments for all contracts for the purchase of goods and services were required to be made by electronic funds transfer. However, there also would be costs to the state for system modifications. Currently, not all vendors are on the state's vendor file. Interfaces with other departmental data systems are used to make payments. Cost estimates for system changes are not available at this time.

ARGUMENTS:

For:

Payment by direct deposit/electronic transfer has many advantages. It saves employers substantial amounts of money and administrative time. It typically provides employees with faster access to funds than with paper checks. Electronic funds transfer is a safe method and there is adequate protection against theft. A great many employees already choose direct deposit, as do recipients of Social Security payments and tax refunds. It is an increasingly common way to do business. These bills make direct deposit and electronic fund transfer (or, alternatively, the use of debit cards) the automatic way to pay wages; some employers would no longer need to seek the consent of employees. Senate Bill 851 would, however, allow an employee to opt out. (The current system requires employees to opt in.) It also requires the use of electronic fund transfers for the purchase of goods and services by the state under contracts as of October 1, 2005 (or 2006 for the Department of Community Health and the Family Independence Agency.) Supporters say electronic funds transfers will save the state government approximately $1.9 million dollars in transaction costs.

Against:

Opponents of mandatory direct deposit argue that many employees have unique personal situations and, for a variety of reasons, do not trust banks or even fear technology. An employer's requirement to establish a bank account would violate the employee's right to choose his or her method of compensation. Opponents also believe that out-of-state employees (including migrant workers) would be inconvenienced if they are required to open bank accounts in the state to receive wages or salary payments.

Response:

Note that Senate Bill 851 in its current form allows employees to opt out of direct deposit and electronic fund transfer. It does not make them mandatory. The bills in their current form contain a number of employee protections (such as providing notice of direct deposit or electronic fund transfer wage payments and allowing six weeks for an employee to open a bank account before direct deposit could begin).

POSITIONS:

Representatives from the following indicated support for the bills to the House Committee on Government Operations on 9-15-04: MasterCard, Michigan Concrete Paving Association, County Road Association of Michigan, and Department of Labor and Economic Growth. The Michigan Bankers Association indicated support for Senate Bill 851.

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