Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bills 850 and 851 (as enrolled)
Sponsor: Senator Jason E. Allen
Senate Committee: Local, Urban and State Affairs
House Committee: Government Operations

PUBLIC ACTS 533 & 534 of 2004

Date Completed: 1-27-05

RATIONALE

According to the Department of Management and Budget (DMB), 414,539 State payroll transactions were processed through warrants during fiscal year (FY) 2002-03, with the mailing and production cost of each warrant being $0.59. During the same period, the number of electronic fund transfers (EFTs) to employees, including payments for separations and monthly early retirement sick leave payments, totaled 1,180,014, with an average cost to the State of $0.12 per transaction.

Some people suggested that the State would see cost savings if the DMB were required to use EFTs for all nonclassified employee and State official payroll, and for contracts for goods or services. It also was suggested that all Michigan employers should be able to achieve savings if EFTs or payroll debit cards were specifically allowed.

CONTENT

Senate Bill 850 amended the Management and Budget Act to provide that all payroll for nonclassified State employees and officials must be paid by electronic funds transfer, and State contracts for the purchase of goods and services must require payment by EFT, beginning October 1, 2005, although the Department of Community Health and the Family Independence Agency must implement the requirements by October 1, 2006.

Senate Bill 851 amended Public Act 390 of 1978, which regulates the payment of wages and fringe benefits, to allow employers to implement the payment of wages by EFT or, with the employee's consent, by payroll debit card.

The bills were tie-barred to each other, and took effect on January 3, 2005.

Senate Bill 850

The bill provides that, beginning October 1, 2005, all payroll and payments to nonclassified State government employees and elected and appointed State officials must be paid by EFT. The bill also provides that, beginning on the same date, all contracts that the State enters into for the purchase of goods or services must require that payment be made by EFT. The Department of Community Health and the Family Independence Agency, however, must implement the requirements by October 1, 2006. The bill states that the Department of Management and Budget is "encouraged" to implement the requirements before October 1, 2005.

Senate Bill 851

Public Act 390 of 1978 previously required wages to be paid in U.S. currency or by a negotiable check or draft. Under the bill, an employer or agent of an employer may pay wages to an employee by either of those methods or by 1) direct deposit or EFT to the employee's account at a financial institution, or 2) issuance of a payroll debit card to the employee.

(The bill defines "payroll debit card" as a stored-value debit card that provides an employee access to his or her wages, for withdrawal or transfer by the employee, through a network of automatic teller machines. The term includes cards commonly known as payroll debit cards, payroll cards, and paycards.)

The bill prohibits an employer from issuing a payroll debit card to an employee without the full, free, and written consent of the employee, obtained without intimidation, coercion, or fear of discharge or reprisal for refusal to accept the payroll debit card. An employer paying wages by payroll debit card to one or more of its employees as of January 1, 2005, however, may pay wages to any of its employees by payroll debit card without obtaining that consent.

The bill also prohibits an employer from requiring an employee to pay any fees or costs incurred by the employer in connection with paying wages or establishing a process for paying wages by either direct deposit or payroll debit card.

As previously provided, an employer or agent of an employer may not deposit an employee's wages in a bank, credit union, or savings and loan association without the full, free, and written consent of the employee, obtained without intimidation, coercion, or fear of discharge or reprisal for refusing to permit the deposit. Under the bill, this applies except as provided in Section 283a of the Management and Budget Act (the section added by Senate Bill 850). The bill also deleted reference to the consent of a prospective employee.

MCL 18.1283a (S.B. 850)
408.476 (S.B. 851)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

While the majority of State employees already are paid by EFT, Senate Bill 850 will produce additional savings by mandating that all nonclassified employees and elected and appointed officials receive their wages via EFT. By moving EFTs, the bill is expected to save the State approximately $1.9 million annually in transaction costs. The bill also will improve cash management: Since there is no mechanism in place for the State to pay its contracts for goods and services by EFT, State agency employees regularly handle checks made out for hundreds of thousands of dollars.

Supporting Argument

Under Michigan law, employers may deposit employee wages in a bank with the employees' consent. Senate Bill 851 clarifies that these deposits may be made by direct deposit or EFT. The bill also allows employers to pay wages through the issuance of a payroll debit card as long as an employee consents (unless the employer was paying wages by payroll debit card to one or more of its employees on January 1, 2005). Thus, the bill enables businesses to reap cost savings by moving most or all of their payroll to EFT or payroll debit cards.

Opposing Argument

Not everyone who is employed in the State wants to be paid by EFT. This fact is demonstrated by the 18% of classified State employees who do not receive their wages via EFT. Employees often refuse EFT payments due to a lack of trust in the banking system. Whether it be older workers who have seen family and friends lose their life savings through bank failures, or others who simply do not like the idea of having to trust an institution with their money, those who distrust banks should not be forced by the State to receive their wages through deposits in banks, credit unions, or savings and loans. Also, many of the State's poorer residents avoid having bank accounts because the banks may charge fees or require that depositors maintain a minimum balance, something the individuals cannot afford.

Response: Except in the case of nonclassified State employees and elected and appointed officials, employers still must obtain employees' consent to deposit wages in a financial institution. Employers also must obtain employees' consent to issue payroll debit cards, unless an employer was doing so on January 1.

Legislative Analyst: J.P. Finet

FISCAL IMPACT Maria Tyszkiewicz

Senate Bill 850

Based on the cost of pay warrants and EFTs reported by the DMB (described above), requiring payroll transactions to be processed through EFT will save the State approximately $194,800 annually. However, the number of payroll transactions varies from year to year. With early retirements resulting in additional transactions for sick leave payouts over a five-year period, the overall reduction of the State workforce, and situations in which statements still will be required, the estimated amount of savings may be on the high end of projected savings. Employees without bank accounts will have to establish accounts. There will be no costs to the State related to system modifications.

The amount of savings related to the requirement that payments for all contracts for the purchase of goods and services by the State be processed through EFT is not determinable. The nonpayroll transactions reported by the DMB include items other than contract payments (e.g., grants) and therefore savings cannot be estimated. Converting all nonpayroll warrant transactions to EFT would result in savings of approximately $1.9 million. Whether it is feasible to require EFT for all transactions is not known. Costs to the State regarding EFT payments to all vendors would include system modifications. Currently, not all vendors are on the State's vendor file. Interfaces with other departmental data systems are used to make payments. The DMB does not have a cost estimate for system changes.

Senate Bill 851

The bill will have an indeterminate impact on local units of government. To the extent that it facilitates the use of electronic fund transfers, savings will be realized after initial start-up costs.

The bill will have no fiscal impact on the Department of Labor and Economic Growth.

Fiscal Analyst: Bill Bowerman

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