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BILL



ANALYSIS

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House Bill 5821 (Substitute H-3 as passed by the House)
Sponsor: Representative Dan Scripps
House Committee: Banking and Financial Services
Senate Committee: Banking and Financial Institutions

Date Completed: 7-27-10

CONTENT

The bill would amend Public Act 390 of 1978 (which deals with the payment of wages and fringe benefits) to do the following:

- **Permit an employer to require employees to receive wages only through direct deposit or a payroll debit card if the employer provided the employee with certain information.**
- **Permit an employer to pay wages by issuing a payroll debit card only if the card allowed at least one weekly withdrawal or transfer without charge, provided for an unlimited number of balance inquiries without charge, and met other requirements.**
- **Permit an employee to request a change in the method of receiving wages at any time.**

Under the Act, an employer may pay wages by U.S. currency, check, direct deposit or electronic transfer, or issuance of a payroll debit card.

An employer may not deposit an employee's wages in a financial institution or issue a payroll debit card without the full, free, and written consent of the employee, obtained without intimidation, coercion, or fear of discharge or reprisal. The bill would retain those provisions, except as described below.

Under the bill, an employer or agent of an employer could require employees to receive wages only through direct deposit or a payroll debit card if the employer had provided the employee with a written form giving him or her the option to receive wages by either of those methods.

In addition, the employer would have to give to the employee a statement indicating that failure to return the form within 30 days would be presumed to indicate consent to receiving wages through a payroll debit card, unless the employee were currently paid by direct deposit. In that case, the method of payment could not be changed to payroll debit card without the employee's written consent.

The employer also would have to give to the employee written disclosure of all of the following concerning the payroll debit card:

- The terms and conditions for use, including an itemized list of any and all fees.

- The methods for gaining access to wages without charge.
- A statement that, if the card were used outside of the specified network of automatic teller machines (ATMs), both the card issuer and the ATM operator could impose charges.
- The methods to obtain free balance inquiries.
- The employee's right to elect to change the method of receiving wages at any time.
- That the payroll debit card would not provide access to a savings or checking account.

An employer could not pay wages by issuing a payroll debit card unless the card allowed the employee to make at least one withdrawal or transfer each week without charge at a teller window of any financial institution in the payment network identified on the card or at an ATM within the financial institution's network of ATMs.

The card could not allow changes in fees or terms of service unless the employee had received a written notice identifying the changes at least 21 days in advance.

The card would have to provide a method for the employee to make an unlimited number of balance inquiries without charge, either electronically or by telephone.

In addition, the card could not be linked to any form of credit, including a loan against future pay or a cash advance on future pay.

An employee could request a change in the method of receiving wages at any time. The employer could take no longer than one pay period to implement the change after receiving the request and any information needed to implement it. An employer would have to allow an employee to select the payment method freely, without intimidation, coercion, or fear of discharge or reprisal for the choice.

Currently, "payroll debit card" means a stored-value card that provides an employee with immediate access for withdrawal or transfer of his or her wages through a network of ATMs. The term includes a card commonly known as a payroll debit card, payroll card, and paycard. The bill would revise the definition to refer to a stored-value card "issued by a Federally insured financial institution".

"Federally insured financial institution" would mean a State or nationally chartered bank or savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government and which maintains a principal office or branch office in Michigan under the laws of this State or the United States.

MCL 408.746

Legislative Analyst: Curtis Walker

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Elizabeth Pratt

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.