Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 1281 (as enacted)
Sponsor: Senator Darwin L. Booher
Senate Committee: Banking and Financial Institutions
House Committee: Banking and Financial Services

PUBLIC ACT 440 of 2012

Date Completed: 2-28-13

RATIONALE

Public Act 390 of 1978 governs the methods that an employer may use to pay wages to employees. In addition to paying by cash or check, employers may make a direct deposit or electronic transfer to an employee's account at a financial institution, or issue a payroll debit card. Also called a payroll card or a paycard, a payroll debit card is a prepaid card that an employer can "load" with additional funds periodically. The employee then can use his or her card to obtain cash at an automatic teller machine, make debit purchases from merchants, or make purchases and receive cash back. As a rule, an employer may not issue a payroll debit card to an employee without the employee's written consent. Public Act 323 of 2010 amended the statute to authorize an employer to require employees to receive wages only through direct deposit or a payroll debit card if the employer meets several requirements and the card has characteristics specified in the Act. The definition of "payroll debit card", however, referred to a card issued *by* a financial institution, and many or most community banks and credit unions apparently do not have the resources to issue the cards on their own. Instead, they use third-party vendors to issue the cards on their behalf. Evidently, unless the definition was changed, many community banks and credit unions would have had to stop offering payroll debit cards.

CONTENT

The bill amended Public Act 390 of 1978 to revise the definition of "payroll debit card". The term originally meant a stored-value card issued by a federally insured financial institution that provides an employee with immediate access for withdrawal or transfer of his or her wages through a network of automatic teller machines. The bill retains this definition but refers to a card issued "by or on behalf of" a federally insured financial institution.

The bill also revised the definition of "federally insured financial institution" by deleting a requirement that the institution maintain a principal office or branch office in Michigan under the laws of this State or the United States.

The bill took effect on December 27, 2012.

MCL 408.476

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

The use of payroll debit cards can be advantageous to employers because they avoid the costs associated with paper-based documents, such as check printing and handling fees, as well as postage and the costs of reconciling checks and replacing lost or stolen checks. Electronic wage payments also can benefit employees, especially if they do not already have an account with a bank or credit union. When "unbanked" workers are paid by check, they must resort to check-cashing businesses in order to receive their wages. In addition to paying fees to cash their checks, these individuals incur costs when purchasing money orders to pay bills or traveling to a payment location to pay in cash. When Public Act 323 of 2010 was enacted, it was suggested that the increased use of payroll debit cards would save employers money and help bring the unbanked into the banking system.

Evidently, however, many people were unable to take advantage of these benefits because of the statutory definition of "payroll debit card". This was pointed out by the Insurance and Finance Advisory Rules Committee in its October 2011 report to the Office of Regulatory Reinvention (ORR). As provided in Executive Order 2011-5, which created the ORR, the Office formed several Advisory Rules Committees (ARCs). The Insurance and Finance ARC was charged with evaluating and making recommendations for changes to Michigan's insurance and finance-related regulations. The Committee ultimately made 46 recommendations, including a recommendation to amend the definition of "payroll debit card".

According the ARC's report, "[The definition] is problematic because the vast majority of community banks and credit unions don't issue their own cards because the cost is prohibitive. Rather, they use out of state third party vendors to issue the cards on their behalf. As a result, many community banks and credit unions will need to stop offering payroll debit cards." By defining "payroll debit card" as a card issued by *or on behalf of* a financial institution, the bill made the recommended change, and will allow employers, consumers, and financial institutions to experience the benefits anticipated when the 2010 amendment was enacted.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

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

Fiscal Analyst: Josh Sefton