

HOUSE BILL No. 4120

January 29, 2015, Introduced by Reps. McCready, Garcia, Iden, Glardon, Pagel, Tedder,
Dianda, Webber and Leutheuser and referred to the Committee on Commerce and Trade.

A bill to amend 1978 PA 390, entitled

"An act to regulate the time and manner of payment of wages and fringe benefits to employees; to prescribe rights and responsibilities of employers and employees, and the powers and duties of the department of labor; to require keeping of records; to provide for settlement of disputes regarding wages and fringe benefits; to prohibit certain practices by employers; to prescribe penalties and remedies; and to repeal certain acts and parts of acts,"

by amending section 7 (MCL 408.477), as amended by 2012 PA 30.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7. (1) Except for those deductions required or expressly
2 permitted by law or by a collective bargaining agreement, an
3 employer shall not deduct from the wages of an employee, directly
4 or indirectly, any amount including an employee contribution to a
5 separate segregated fund established by a corporation or labor
6 organization under section 55 of the Michigan campaign finance act,
7 1976 PA 388, MCL 169.255, without the full, free, and written

consent of the employee, obtained without intimidation or fear of discharge for refusal to permit the deduction. However, an employer that is a public body, as defined in section 11 of the Michigan campaign finance act, 1976 PA 388, MCL 169.211, shall not deduct, directly or indirectly, any amount from an employee's wages for a contribution to a separate segregated fund established under section 55 of the Michigan campaign finance act, 1976 PA 388, MCL 169.255, or a contribution or any payment to any committee established under the federal election campaign act of 1971, Public Law 92-225, 2 USC 431 to 455.

(2) Except as provided in this subsection and ~~subsection~~ **SUBSECTIONS (4) AND (5)**, a deduction for the benefit of the employer requires written consent from the employee for each wage payment subject to the deduction, and the cumulative amount of the deductions shall not reduce the gross wages paid to a rate less than ~~THE~~ minimum rate as ~~defined~~ **PRESCRIBED** in the ~~minimum wage law of 1964, 1964 PA 154, MCL 408.381 to 408.398.~~ **WORKFORCE OPPORTUNITY WAGE ACT, 2014 PA 138, MCL 408.411 TO 408.424.** A nonprofit organization shall obtain a written consent from an employee for deductions to that nonprofit organization that qualify as charitable contributions under federal law. However, this subsection does not require the nonprofit organization to obtain from an employee a separate written consent for each subsequent paycheck from which deductions that qualify as charitable contributions that benefit the employer are made. An employee at any time may rescind in writing his or her authorization to have charitable contributions deducted from his or her paycheck. As used

1 in this subsection, "nonprofit organization" means an organization
2 that is exempt from taxation under section 501(c)(3) of the
3 internal revenue code, 26 USC 501(c)(3).

4 (3) Each deduction from the wages of an employee shall be
5 substantiated in the records of the employer and shall be
6 identified as pertaining to an individual employee. Prorating of
7 deductions between 2 or more employees is not permitted.

8 (4) Within 6 months after making an overpayment of wages or
9 fringe benefits that are paid directly to an employee, an employer
10 may deduct the overpayment from the employee's regularly scheduled
11 wage payment without the written consent of the employee if all of
12 the following conditions are met:

13 (a) The overpayment resulted from a mathematical
14 miscalculation, typographical error, clerical error, or misprint in
15 the processing of the employee's regularly scheduled wages or
16 fringe benefits.

17 (b) The miscalculation, error, or misprint described in
18 subdivision (a) was made by the employer, the employee, or a
19 representative of the employer or employee.

20 (c) The employer provides the employee with a written
21 explanation of the deduction at least 1 pay period before the wage
22 payment affected by the deduction is made.

23 (d) The deduction is not greater than 15% of the gross wages
24 earned in the pay period in which the deduction is made.

25 (e) The deduction is made after the employer has made all
26 deductions expressly permitted or required by law or a collective
27 bargaining agreement, and after any employee-authorized deduction.

(f) The deduction does not reduce the regularly scheduled gross wages otherwise due the employee to a rate that is less than the greater of either of the following:

(i) The minimum rate as prescribed by subsection (2).

(ii) The minimum rate as prescribed by the fair labor standards act of 1938, ~~chapter 676, 52 Stat. 1060,~~ 29 USC 201 to ~~216 and 217 to~~ 219.

(5) IF AN EMPLOYER PAYS ANY AMOUNT OF THE EMPLOYEE'S DEBT UNDER A DEFAULT JUDGMENT ENTERED UNDER SECTION 4012(9) OR (10) OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.4012, THE EMPLOYER MAY DEDUCT THAT AMOUNT FROM THE EMPLOYEE'S REGULARLY SCHEDULED WAGE PAYMENT WITHOUT THE WRITTEN CONSENT OF THE EMPLOYEE IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

(A) THE EMPLOYER PROVIDES THE EMPLOYEE WITH A WRITTEN EXPLANATION OF THE DEDUCTION AT LEAST 1 PAY PERIOD BEFORE THE WAGE PAYMENT AFFECTED BY THE DEDUCTION IS MADE.

(B) THE DEDUCTION IS NOT GREATER THAN 15% OF THE GROSS WAGES EARNED IN THE PAY PERIOD IN WHICH THE DEDUCTION IS MADE.

(C) THE DEDUCTION IS MADE AFTER THE EMPLOYER HAS MADE ALL DEDUCTIONS EXPRESSLY PERMITTED OR REQUIRED BY LAW OR A COLLECTIVE BARGAINING AGREEMENT, AND AFTER ANY EMPLOYEE-AUTHORIZED DEDUCTION.

(D) THE DEDUCTION DOES NOT REDUCE THE REGULARLY SCHEDULED GROSS WAGES OTHERWISE DUE THE EMPLOYEE TO A RATE THAT IS LESS THAN THE GREATER OF EITHER OF THE FOLLOWING:

(i) THE MINIMUM RATE AS PRESCRIBED BY SUBSECTION (2).

(ii) THE MINIMUM RATE AS PRESCRIBED BY THE FAIR LABOR STANDARDS ACT OF 1938, 29 USC 201 TO 219.

1 (6) ~~(5)~~—An employee who believes his or her employer has
2 violated subsection (4) **OR (5)** may file a complaint with the
3 department within 12 months after the date of the alleged
4 violation.

5 (7) ~~(6)~~—As used in this section, "employer" means an
6 individual, sole proprietorship, partnership, association, or
7 corporation, public or private, this state or an agency of this
8 state, a city, county, village, township, school district, or
9 intermediate school district, an institution of higher education,
10 or an individual acting directly or indirectly in the interest of
11 an employer who employs 1 or more individuals.

12 Enacting section 1. This amendatory act takes effect 90 days
13 after it is enacted into law.

14 Enacting section 2. This amendatory act does not take effect
15 unless Senate Bill No. ____ or House Bill No. 4119 (request no.
16 01248'15) of the 98th Legislature is enacted into law.