

Legislative Analysis



ELECTRONIC PAYMENT OF WAGES

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House Bill 5599 with House committee amendment

Sponsor: Rep. Jacob Hoogendyk

Committee: Employment Relations, Training and Safety

First Analysis (4-28-04)

BRIEF SUMMARY: The bill would allow an employer to pay wages by direct deposit or electronic transfer or debit card without the written approval of the employee.

FISCAL IMPACT: There would be no fiscal impact on the state or on local governmental units.

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 direct deposit and electronic transfer of paychecks results in large savings for employers, perhaps more than \$2 per payroll transaction. It is offered by most employers and is a widely used option by employees. (Reportedly, more than half of all employees use direct deposit, as do most Social Security recipients.) It is an efficient method of payment, saving money and time, and offers protection against theft and forgery of checks. Representatives of employers say that they ought to be able to use this method without seeking the approval of employees, as the law currently requires. This would increase participation in direct deposit and increase savings.

THE CONTENT OF THE BILL:

The bill would amend Public Act 390 of 1978 to strike the prohibition on paying wages by direct deposit or electronic transfer without the written permission of the employee. An employer would be allowed to pay wages by direct deposit or electronic transfer to 1) the employee's account at a financial institution; or 2) if the employee did not have such an account, to an account maintained by the employer in the name of the employee and accessible to the employee by access device. An employer that paid wages using those methods would have to provide the required statement of hours, wages, and deductions in writing if requested by the employee.

[Section 9 of the act requires an employer to furnish to each employee when wages are paid a statement of hours worked, gross wages paid, the pay period, an itemization of deductions.]

MCL 408.476

ARGUMENTS:

For:

Payment by direct deposit/electronic transfer has many advantages. It saves employers substantial amounts of money (\$2 or more per transaction) and administrative time. It saves time employees otherwise might spend leaving work to deposit their paychecks. It typically provides employees with faster access to their wages. It eliminates the problem of lost, stolen, forged, and counterfeit checks. A great many employees already choose direct deposit, as do recipients of Social Security and tax refunds. It is an increasingly common way to do business. Financial institutions commonly provide advantages to customers who use electronic transfers (and electronic bill-paying). Reportedly 10 states permit employers to require direct depositing of wages.

Note that the bill would not require employees to have bank accounts. Instead, employers would establish an account for employees without bank accounts and then pay using an access (or debit) card. Payment by this method gives employees another option. Debit cards also save employers significant amounts of money. According to recent news accounts, an increasing number of employers now offer payroll debit cards, including Meijer, Domino's, and Comerica, although they have yet to become popular with employees. (These cards apparently are also used as an option along with direct deposit, and reportedly some people use them as a form of spending restraint.)

Response:

Direct deposit and electronic fund transfer may well be excellent ideas. But wouldn't it be better for employers to convince their employees of that fact rather than convince the legislature to impose this method of payment on all employees? Some employers already do a good job at this and have high participation in direct deposit as a result.

Against:

Direct deposit should remain at the option of the employee. Employees may have personal, philosophical, or religious objections to direct deposit. Some people now do not select the electronic transfer option because of a distrust of banks, because they do not want the employer do have access to bank account numbers, and a variety of other reasons. Some employees live paycheck to paycheck and do not have bank accounts. Whatever their reasoning, employees should continue to have the right to choose how to receive their pay. At the very least, the law should permit an employee to object to participation in a direct deposit program.

Further, some people are concerned about the fees associated with the use of debit-type pay cards for workers without bank accounts. Who is responsible for these fees? Is it the employee or the employer?

Response:

Cashing a paycheck, for a person without a bank account, already involves fees. A debit card would be no different. Generally speaking, it ought to be up to the employer to decide how employees are paid and how to organize its human resource functions effectively.

POSITIONS:

Representatives of the following indicated support for the bill to the House Committee on Employment Relations, Training and Safety: the Michigan Manufacturing Association; the Michigan Concrete Paving Association; Western Michigan University; the Society for Human Resource Management; the National Federation of Independent Business; the Michigan Bankers Association; and the Presidents' Council, State Universities of Michigan. (3-31-04)

Representatives of the following indicated opposition to the bill: the Department of Labor and Economic Growth; the Michigan State AFL-CIO; the International Union, UAW; and the Service Employees International Union

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.