

BILL ANALYSIS

C.S.H.B. 1196

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Technology, Economic Development & Workforce
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Texas law does not directly allow or prohibit the use of pay cards, however this versatile financial product is becoming increasingly more popular with businesses, local governments and consumer advocates. Payroll cards are attractive to employers because they can be less expensive than processing and issuing paper checks. Payroll cards are attractive to employees because they can be used to access cash at ATMs and banks, to pay bills, or to buy merchandise. The terms and fees of a payroll card are negotiated between the employer and the payroll card company; however, it is the employee that's responsible for paying most of the fees. Depending on the negotiations, employees may pay more or less fees.

CSHB 1196 clarifies that employers have the option of paying employees with payroll debit cards. It also provides employees with certain protections and disclosures when wages are paid with a payroll card.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

CSHB 1196 amends Chapter 61 of the Labor Code by creating a new subchapter to set forth provisions for the use of payroll cards as an authorized form of wage payment for Texas employers. The bill defines payroll card, payroll card account, payroll card issuer, offers a payroll card, and fee and allows for an electronic transfer of funds to a direct deposit plan or a payroll card account.

The bill allows an employer to pay wages through an electronic transfer of funds to a payroll card account at a federally insured depository institution. The bill requires an employer to obtain written consent from the employee and to provide to the employee a copy of the written disclosure and the consent in plain language and in the language primarily used with the employee, and to provide a copy of any changes, when occurring. The written disclosure shall include the terms, conditions and all fees that may be deducted from the employee's payroll card account by the employer, payroll card issuer or a third party provider.

The bill allows the employer to comply with the consent requirement of this section by giving employees the option of receiving their wages on a payroll card, by direct deposit, or any other method offered by the employer, provided that employees are given a written form on which to make their election which meets all the requirements of this section.

The bill lists certain payroll card or payroll card account fee prohibitions, restricts the use of a payroll card as a condition of hire or continued employment and restricts the use of personal information other than to process transactions or for the administration of the payroll card account.

The bill allows an employee one free withdrawal of net salary per pay wage period, access to one free transaction history each month and allows for the change of wage payment from a payroll card to another form as allowed by law and offered by the employer. The employee may make

the request on a written form or through an electronic format, if provided by the employer, and the change shall be made within 30 days after the request.

The bill restricts any link to any form of credit to payroll card or payroll card account, including a loan against future pay or a cash advance on future pay. The prohibition does not apply to an inadvertent overdraft that occurs in spite of procedures designed to avoid overdrafts; or overdraft protection on the payroll card account that is specifically agreed to by the employee.

The bill prohibits an employer from issuing a payroll card other than from an insured depository institution. The bill sets out the parameters of the agreement between the employer and the institution and prohibits overdrafts on the payroll card except as requested by the payroll card or payroll card account owner.

The bill amends current law by adding payroll card accounts to the list of authorized forms of wage payment and amends current law to include payroll cards as an authorized form of delivery of wage payment.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The committee substitute is a council draft of the filed version of the bill. The committee substitute creates a new subchapter G in Chapter 61, Labor Code. The substitute amends the bill to allow an employer to comply with the consent requirement by giving the employee a written form on which to provide consent of receiving wages through a payroll card account, a direct deposit plan, or any other method as long as the form meets all the requirements of this section.

The substitute amends the bill by adding an additional stipulation that an employee may request a change in the method of wage payment to another method offered by employer. The substitute amends the bill to add language to clarify that the prohibition against linking payroll cards and credit does not apply to an inadvertent overdraft that occurs in spite of procedures designed to avoid overdrafts or overdraft protection specifically agreed to by the employee.