

2013 DRAFTING REQUEST

Bill

Received: 7/1/2013 Received By: gmalaise
 Wanted: As time permits Same as LRB:
 For: Dave Hansen (608) 266-5670 By/Representing: Jon Mielke
 May Contact: Drafter: gmalaise
 Subject: Employ Priv - miscellaneous Addl. Drafters:
 Extra Copies:

Submit via email: YES
 Requester's email: Sen.Hansen@legis.wisconsin.gov
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Payment of wages by use of a payroll card; prohibition on

Instructions:

See attached--prohibit employers from requiring employees to be paid by use of a payroll card

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 7/1/2013	jdyer 7/16/2013	jfrantze 7/16/2013	_____			
/1	gmalaise 8/28/2013			_____	lparisi 7/16/2013		State S&L
/2		scalvin 8/30/2013	rschluet 8/30/2013	_____	lparisi 8/30/2013	mbarman 10/11/2013	State S&L

FE Sent For:

at
intro

<END>

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/?	gmalaise 7/1/2013	jdyer 7/16/2013	jfrantze 7/16/2013	_____			
/1		1/2 sac 08/30/2013		_____	lparisi 7/16/2013		State S&L

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/?	gmalaise	7/16 jld		RS			

FE Sent For:

<END>

Malaise, Gordon

From: Gary, Aaron
Sent: Monday, July 01, 2013 10:55 AM
To: Malaise, Gordon
Subject: FW: drafting request

Would this be yours?

Aaron

From: Mielke, Jon
Sent: Monday, July 01, 2013 10:16 AM
To: Gary, Aaron
Subject: drafting request

Hi Aaron,

Sen. Hansen would like to have legislation drafted which would prohibit the employers from paying workers by pre-paid cards. This article explains the practice: <http://www.nytimes.com/2013/07/01/business/as-pay-cards-replace-paychecks-bank-fees-hurt-workers.html?ref=business>

Thanks,

Jon Mielke
Office of Sen. Dave Hansen

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Paid via Card, Workers Feel Sting of Fees



Niko J. Kallianiotis for The New York Times

Natalie Gunshannon, 27, with her daughter, Anie Popish, 7, said she had to use a card because her employers would not deposit her pay directly into her account.

By JESSICA SILVER-GREENBERG and STEPHANIE CLIFFORD
Published: June 30, 2013

A growing number of American workers are confronting a frustrating predicament on payday: to get their wages, they must first pay a fee.

For these largely hourly workers, paper paychecks and even direct deposit have been replaced by prepaid cards issued by their employers. Employees can use these cards, which work like debit cards, at an A.T.M. to withdraw their pay.

But in the overwhelming majority of cases, using the card involves a fee. And those fees can quickly add up: one provider, for example, charges \$1.75 to make a withdrawal from most A.T.M.'s, \$2.95 for a paper statement and \$6 to replace a card. Some users even have to pay \$7 inactivity fees for not using their cards.

These fees can take such a big bite out of paychecks that some employees end up making less than the minimum wage once the charges are taken into account, according to interviews with consumer lawyers, employees, and state and federal regulators.

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5.

Devonte Yates, 21, who earns \$7.25 an hour working a drive-through station at a McDonald's in Milwaukee, says he spends \$40 to \$50 a month on fees associated with his JPMorgan Chase payroll card.

"It's pretty bad," he said. "There's a fee for literally everything you do."

Certain transactions with the Chase pay card are free, according to a fee schedule.

Many employees say they have no choice but to use the cards: some companies no longer offer common payroll options like ordinary checks or direct deposit.

At companies where there is a choice, it is often more in theory than in practice, according to interviews with employees, state regulators and consumer advocates. Employees say they are often automatically enrolled in the payroll card programs and confronted with a pile of paperwork if they want to opt out.

"We hear virtually every week from employees who never knew there were other options, and employers certainly don't disabuse workers of that idea," said Deyanira Del Rio, an associate director of the Neighborhood Economic Development Advocacy Project, which works with community groups in New York.

Taco Bell, Walgreen and Wal-Mart are among the dozens of well-known companies that offer prepaid cards to their workers; the cards are particularly popular with retailers and restaurants. And they are quickly gaining momentum. In 2012, \$34 billion was loaded onto 4.6 million active payroll cards, according to the research firm Aite Group. Aite said it expected that to reach \$68.9 billion and 10.8 million cards by 2017.

Companies and card issuers, which include Bank of America, Wells Fargo and Citigroup, say the cards are cheaper and more efficient than checks — a calculator on Visa's Web site estimates that a company with 500 workers could save \$21,000 a year by switching from checks to payroll cards. On its Web site, Citigroup trumpets how the cards "guarantee pay on time to all employees."

The largest issuer of payroll cards is NetSpend, based in Austin, Tex. Chuck Harris, the company's president, says it attracts companies by offering convenience to employees and cost savings to employers.

"We built a product that an employer can fairly represent to their employees as having real benefits to them," he said.

Sometimes, though, the incentives for employers to steer workers toward the cards are more explicit. In the case of the New York City Housing Authority, it stands to receive a dollar for every employee it signs up to Citibank's payroll cards, according to a contract reviewed by The New York Times. (Sheila Stainback, a spokeswoman for the agency, noted that it had an annual budget of \$3 billion and that roughly 430 employees had signed up for the card.)

For Natalie Gunshannon, 27, another McDonald's worker, the owners of the franchise that she worked for in Dallas, Pa., she says, refused to deposit her



A Bill Allowing More Foreign Workers Stirs a Tech Debate

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Future of Catholic Schools



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pay directly into her checking account at a local credit union, which lets its customers use its A.T.M.'s free. Instead, Ms. Gunshannon said, she was forced to use a payroll card issued by JPMorgan Chase. She has since quit her job at the drive-through window and is suing the franchise owners.

"I know I deserve to get fairly paid for my work," she said.

1 | 2 | [NEXT PAGE »](#)

A version of this article appeared in print on July 1, 2013, on page A1 of the New York edition with the headline: Paid via Card, Workers Feel Sting of Fees

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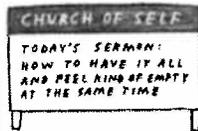


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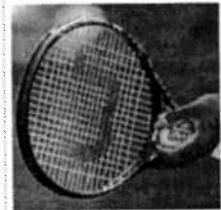
Room for Debate asks whether the shape of the debate would change if more women discussed their experiences.

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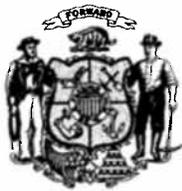


Cicadas Go Quiet, but Many Missed the Show

[TENNIS »](#)



Williams Began Surge With Racket Change



State of Wisconsin
2013 - 2014 LEGISLATURE

GMM



DRB-2602/??

IN 711

Due Wednesday
please

X

Gen

1 AN ACT ...; relating to: prohibiting payment of wages by electronic fund transfer
2 to a payroll card account.

Analysis by the Legislative Reference Bureau

Under current law, if an employer pays wages in a form other than cash, the wages must be payable at the employer's office, if within the state, at any bank within the state, or at a place of business within the county in which the work was performed.

This bill prohibits an employer from requiring an employee to accept payment of his or her wages, salary, or other compensation in the form of an electronic fund transfer to a payroll card account, which is defined by regulations issued under the federal Electronic Fund Transfer Act as "an account that is directly or indirectly established through an employer and to which electronic fund transfers of the consumer's wages, salary, or other employee compensation (such as commissions) are made on a recurring bases, whether the account is operated or managed by the employer, a third-party payroll processor, a depository institution, or any other person."

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

③ Fix Component

SECTION 1. 103.45 of the statutes is (title) renumbered 103.45 (1) and amended to

4 read:

SEC. # 103.45 of the Statutes
is renumbered 103.45 (1) and amended to read:
SECTION 1
103.45

LBB-26027?

(title)

1

103.45 Time checks; payroll cards; penalty. (1) All Subject to sub. (2), all

2

persons paying wages in time checks or paper, other than legal money, shall make those time checks or that paper payable in some designated place of business in the county in which the work was performed or at the office of the person paying the wages if within this state, or at any bank within this state.

3

4

5

6

(3) Any person failing to comply with this section shall be fined not less than \$10 nor more than \$100.

7

History: 1997 a. 253.

8

SECTION 2. 103.45 (2) of the statutes is created to read:

9

103.45 (2) No employer may require an employee to accept payment of the employee's wages, salary, or other compensation in the form of an electronic fund transfer to a payroll card account, as defined in 12 CFR 205.2 (b) 2.

10

11

12

SECTION 3. Initial applicability.

13

(1) PAYROLL CARDS; COLLECTIVE BARGAINING AGREEMENTS. This act first applies to wages paid on the effective date of this subsection, except that this act first applies to wages paid to an employee who is affected by a collective bargaining agreement that contains provisions inconsistent with this act on the day on which the collective bargaining agreement expires or is extended, modified, or renewed.

14

15

16

17

18

SECTION 4. Effective date.

19

(1) PAYROLL CARDS. This act takes effect on the first day of the 4th month beginning after publication.

20

21

(END)

Malaise, Gordon

From: Mielke, Jon
Sent: Tuesday, August 27, 2013 10:27 AM
To: Malaise, Gordon
Subject: Email from LRB Website, re: LRB 2602/1

Hi Gordon,

We would like to make some changes to LRB 2602/1.

Include government in addition to private employers and also add an opt-in clause for workers who would get paid in this manner.

Thanks,

Jon Mielke
Office of Sen. Dave Hansen



State of Wisconsin
2013 - 2014 LEGISLATURE

IN 8/28
soon



LRB-2602/1 (2)
GMM:jld/t
esac

2013 BILL

Insert A

gen cat

Regenerat

1 AN ACT to renumber and amend 103.45; to amend 103.45 (title); and to create
2 103.45 (2) of the statutes; relating to: ~~prohibiting~~ payment of wages by
3 electronic fund transfer to a payroll card account.

Analysis by the Legislative Reference Bureau

Under current law, if an employer pays wages in a form other than cash, the wages must be payable at the employer's office, if within the state, at any bank within the state, or at a place of business within the county in which the work was performed.

This bill ~~prohibits~~ ^{permits} an employer ~~from requiring~~ ^{, including the state, to pay} an employee to accept payment of his or her wages, salary, or other compensation in the form of an electronic fund transfer to a payroll card account, ~~which is defined by~~ regulations issued under the federal Electronic Fund Transfer Act, as "an account that is directly or indirectly established through an employer and to which electronic fund transfers of the consumer's wages, salary, or other employee compensation (such as commissions) are made on a recurring basis, whether the account is operated or managed by the employer, a third-party payroll processor, a depository institution, or any other person."

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

basis

a payroll card account is defined as

BILL

1 SECTION 1. 103.45 (title) of the statutes is amended to read:

2 **103.45 (title) Time checks; payroll cards; penalty.**

3 SECTION 2. 103.45 of the statutes is renumbered 103.45 (1) and amended to
4 read:

5 103.45 (1) All Subject to sub. (2), all persons paying wages in time checks or
6 paper, other than legal money, shall make those time checks or that paper payable
7 in some designated place of business in the county in which the work was performed
8 or at the office of the person paying the wages if within this state, or at any bank
9 within this state.

10 (3) Any person failing to comply with this section shall be fined not less than
11 \$10 nor more than \$100.

An
pay

12 SECTION 3. 103.45 (2) of the statutes is created to read:

13 103.45 (2) ~~No~~ employer may ~~require~~ an employee to accept payment of the
14 ~~employee's~~ wages, salary, or other compensation in the form of an electronic fund

his or her

15 transfer to a payroll card account, as defined in 12 CFR 205.2 (b) 2.

Insert 2015

SECTION 4. Initial applicability.

17 (1) PAYROLL CARDS; COLLECTIVE BARGAINING AGREEMENTS. This act first applies to
18 wages paid on the effective date of this subsection, except that this act first applies
19 to wages paid to an employee who is affected by a collective bargaining agreement
20 that contains provisions inconsistent with this act on the day on which the collective
21 bargaining agreement expires or is extended, modified, or renewed.

SECTION 5. Effective date.

23 (1) PAYROLL CARDS. This act takes effect on the first day of the 4th month
24 beginning after publication.

25 (END)

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2602/2ins
GMM.....

(INSERT 2-15)

b.1+

1 only if payment of that compensation in that form is made in accordance with
2 any of the following:

3 (a) The applicable provisions of a collective bargaining agreement between the
4 employer and a labor organization that has been certified or recognized as the
5 representative of the employee.

6 (b) In the case of an employee who is not represented by a labor organization
7 described in par. (a), an agreement between the employer and the employee arrived
8 at before the performance of the work, entered into by the employee knowingly and
9 voluntarily and not as a condition of employment, and affirmed by a written or
10 otherwise verifiable record maintained by the employer in accordance with s. 104.09.

11 **SECTION 1.** 230.12 ⁽¹³⁾ of the statutes is created to read: ^{b.1+}

12 230.12 ⁽¹³⁾ ~~(11)~~ PAYROLL CARDS. An appointing authority may pay an employee his
13 or her wages, salary, or other compensation in the form of an electronic fund transfer
14 to a payroll card account, as defined in 12 CFR 205.2 (b) 2., only if payment of that
15 compensation in that form is made in accordance with any of the following: ^{a.m.c.}

16 (a) The applicable provisions of a collective bargaining agreement ~~between~~
17 state, the office of state employment relations, and a labor organization that has been
18 certified or recognized as the representative of the employee.

19 (b) In the case of an employee who is not represented by a labor organization
20 described in par. (a), an ~~agree~~ ^{that is} agreement between the employee and the agency ⁽¹³⁾ in which
21 the employee is employed ~~arrived~~ at before the performance of the work, ~~entered~~
22 by the employee knowingly and voluntarily and not as a condition of employment,

15
1

and affirmed by a written or otherwise verifiable record maintained by the agency
in accordance with s. 104.09.

(END OF INSERT)

but only

(INSERT A)

if payment of that compensation in that form is authorized by a collective bargaining agreement or by an agreement that is arrived at before the work is performed, is entered into by the employee knowingly and voluntarily and not as a condition of employment, and is affirmed by a written or otherwise verifiable record maintained by the employer.

Under current

(END OF INSERT)

Barman, Mike

From: Mielke, Jon
Sent: Friday, October 11, 2013 11:14 AM
To: LRB.Legal
Subject: Draft Review: LRB -2602/2 Topic: Payment of wages by use of a payroll card; prohibition on

Please Jacket LRB -2602/2 for the SENATE.