



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: [Sub. H.B. 253 of the 130th G.A.](#)
(LSC 130 1319-1)

Date: May 6, 2014

Status: In House Commerce, Labor, and Technology

Sponsor: Rep. Rogers

Local Impact Statement Procedure Required: No

Contents: Prohibits certain employers from requiring employees to accept pay in the form of a paycheck card

State Fiscal Highlights

- The bill requires the Department of Commerce to administer and enforce the bill's requirements regarding the payment of wages by way of payroll card. There could be a minimal increase in costs for the Department's Bureau of Wage and Hour Administration. Costs for the Bureau are paid from the Industrial Compliance Operating Fund (Fund 5560).

Local Fiscal Highlights

- The bill allows an employee, an employee's representative, or the Director of Commerce to file suit if they believe a violation of the bill's payroll card requirements has occurred. If this results in additional cases, there could be an increase in costs for municipal courts or county courts of common pleas.

Detailed Fiscal Analysis

The bill prohibits any person who has one or more employees from requiring employees to accept wages in the form of a payroll card and specifies the conditions under which employers may offer employees payroll cards. Under the bill, employers must:

- Obtain an employee's written consent to receive wages in the form of a payroll card.
- Offer employees an alternative form of receiving wages, including direct deposit in an account of the employee's choosing.
- Provide plain language descriptions of the terms and conditions of the payroll card, including fees.

Also under the bill, employees must be able to (1) withdraw the entire amount of wages for each pay period without incurring a fee, and (2) gain access to balance and account information telephonically and electronically. For payroll card issuers, the bill requires that card issuers prevent withdrawals in excess of the account balance and, to the extent possible, protect against overdrafts. The payroll card accounts must also be insured through the Federal Deposit Insurance Corporation or the National Credit Union Administration. Finally, the bill assigns administration and enforcement of these requirements to the Department of Commerce (COM) and establishes procedures by which employees may submit complaints alleging violations of the bill's requirements for review by the Department or by a court of competent jurisdiction. As a result of the changes under the bill, the Department and municipal courts or county courts of common pleas may incur new costs for dealing with payroll card cases that arise. Further details about the potential fiscal effects of the bill are provided under the headings below.

Administration and enforcement of payroll card requirements

The bill requires COM to administer and enforce the bill's requirements concerning the payment of wages by way of payroll card. The bill provides the Director of Commerce the same authority to enforce these requirements as granted under Ohio's Minimum Fair Wage Standards Law. Additionally, the bill requires the Director to adopt rules concerning abusive forms of credit or credit practices as they relate to payroll card accounts. The bill also establishes procedures by which an employee or a person acting on behalf of an employee may file a complaint with the Director alleging a violation of the bill's payroll card requirements. As a result, COM's Bureau of Wage and Hour Administration, which oversees violations of the Minimum Fair Wage Standards Law, may incur new costs. Any additional costs would depend on the number of enforcement actions and number of complaints received. However, considering that there are relatively few minimum wage actions under current law, it is

likely that any new costs would be minimal at most. In some instances, new costs could be at least partially offset by civil penalties. Under the bill, civil penalties may be assessed when a violation is committed by the issuer of a payroll card. Depending upon the nature of the violation, civil penalties may be up to \$5,000, \$25,000, or \$100,000 per day. Any additional costs that the Bureau of Wage and Hour Administration might incur for investigating payroll card cases would be paid from the Industrial Compliance Operating Fund (Fund 5560).

Complaints resulting in court action

Under the bill, an employee, an employee's representative, or the Director of Commerce may bring action in a court of competent jurisdiction if they believe that there has been a violation of the requirements under the bill. If this results in additional cases, municipal courts or county courts of common pleas may incur new costs. Under the bill, these costs could be offset if the violation is committed by the issuer of a payroll card. In this case, the bill specifically requires the issuer to pay court costs. However, in the event that the violation is by an employer, it is unclear if the costs of the court could be recovered. In this case, the bill specifically provides that the employer make certain payments to the employee including back wages, reasonable attorney fees, and other employee costs, but is silent regarding court costs. Additionally, in the event that the court finds that no violation existed, the bill specifically prohibits the complaining employee from incurring any costs or attorney's fees except upon a finding that the action filed was frivolous in accordance with the same standards that apply generally in civil suits. If a court finds that no violation occurred and that the payroll card case before it is not frivolous, it is unclear who would be responsible for these costs. In any event, because the number of violations is likely to be small, any costs for the courts are likely to be minimal at most.