BILL ANALYSIS

Senate Research Center | H.B. 2240
86R20723 SMT-D | By: Murphy; Cain (Hinojosa)
Natural Resources & Economic Development
5/7/2019
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

According to the Federal Reserve, about 11 percent of American workers do not have a bank account, so direct deposit is not an option. While paper checks can be cashed in an number of ways, there are typically fees associated with those transactions. Moreover electronic payments are a safer and more cost effective alternative than cash or paper checks for both employer and employee.

A payroll card is a reloadable prepaid card offered by an employer as a way for its employees who lack access to traditional bank accounts to receive their wages electronically. Payroll cards eliminate the need to carry around large sums of cash, which can pose a security risk, and also provide the unbanked population many of the consumer protection features of a credit card or bank account. Additionally, payroll cards fill an important need for the unbanked, especially during times of natural disaster. For instance, during the aftermath of Hurricane Harvey, The Home Depot continued to pay associates for scheduled work hours at the 40 plus stores that were closed. They had extreme difficulty locating and paying unbanked employees, those receiving checks, who were unreachable or displaced by the storm. Despite efforts by their employer, these unbanked employees were without their paycheck when they needed funds the most.

Currently, Section 61.016, Labor Code allows employers to pay wages by cash, check, direct deposit, or in another form if the employee agrees in writing. Thus, payroll cards are allowed by law, but the opt-in provision results in low employer adoption. Allowing employers to select the payroll card account, coupled with the employee's options to opt-out, will dramatically increase adoption and retention rates, leading to more employees having timely access to their pay through a payroll card, even during natural disasters.

H.B. 2240 amends current law relating to the payment of wages by an employer through a payroll card account.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 61.001, Labor Code, by adding Subdivision (6-a) to define "payroll card account" for purposes of this section.

SECTION 2. Amends Section 61.016(a), Labor Code, to require an employer to pay wages to an employee in certain ways, including by the electronic transfer of funds to a bank account designated by the employee or a payroll card account established by the employer.

SECTION 3. Amends Section 61.017, Labor Code, by adding Subsection (d), as follows:

> (d) Authorizes an employer may elect to pay wages to an employee through a payroll card account plan that is linked to a federally insured financial institution and uses electronic funds transfer to deposit wages in the employee's payroll card account. Requires an employer who elects to pay wages through a payroll card account to:

(1) not later than the 60th day before the date of the first electronic funds transfer to the payroll card account of an affected employee or, for an employee hired after the date the employer adopts the plan, not later than the employee's first day of work:

(A) notify the employee in writing regarding the employer's adoption of a payroll card account plan; and

(B) provide to the employee:

(i) a complete list of all fees associated with the employee's payroll card account in English, or, if the employer offers a payroll card account to an employee in a language other than English, in that other language; and

(ii) a form the employee may use to request an alternate form of payment if the employee elects to opt out of the payroll card account plan; and

(2) obtain from the employee any information required by the payroll card account issuer that is necessary to implement the electronic funds transfer.

(e) Requires the employer, if an employee requests an alternate form of payment under Subsection (d)(1)(B)(ii), to pay the employee's wages in the alternate form as soon as practicable, but not later than the first payday occurring after the 30th day after the employee requests the alternate form of payment.

SECTION 4. Effective date: September 1, 2019.