



American Payroll Association

Government Relations • Washington, DC

October 14, 2013

Re: Statement in Opposition to HB 253

Dear Representative Rogers,

The American Payroll Association commends your interest in best practices associated with paying Ohio's workers, but respectfully opposes House Bill 253 (HB 253). If enacted, the bill would foreclose workers and businesses from the documented benefits of payroll cards by making them prohibitively difficult to offer. This is because HB 253 would force businesses to make wages available in cash if payroll cards are offered to employees. Cash is a terribly impractical method of wage payment and has not been in wide use for nearly 100 years.

The reasons are many and varied. For instance, theft presents a risk for businesses carrying large amounts of cash to pay employees. Moreover, the labor cost required to handle, count and distribute wages in cash is substantial. Indeed, cash is so cost prohibitive that employers are likely to stop offering payroll cards to employees in Ohio if HB 253 becomes law. Such a result would be unfortunate, given that payroll cards are one of the least expensive and safest ways for employees to receive their wages.

For all these reasons, the APA respectfully requests that you withdraw HB 253.

The American Payroll Association

The APA is a nonprofit professional association representing more than 20,000 payroll professionals and their companies in the United States. The APA's primary mission is to educate its members and the payroll industry regarding best practices associated with paying America's workers while complying with applicable federal, state, and local laws. In addition, the APA's Government Affairs Task Force works with the legislative and executive branches of government to find ways to help employers satisfy their legal obligations, while minimizing the administrative burden on government, employers, and individual workers.

In 2004, the APA's Government Affairs Task Force formed a Payroll Card Subcommittee in response to an increased interest by employers in the use of payroll cards as part of their wage payment program. This subcommittee monitors the development and use of payroll cards within the employer community and helps educate policymakers and regulators about the benefits and uses of the cards.

Payroll Cards Offer a Valuable Solution to Underserved Workers

Electronic wage payment offers employees access to their pay in a secure and less costly way than traditional paper paychecks. For this reason, the State of Ohio itself delivers a number of benefits to its residents using prepaid cards. For instance, the Ohio Direction Card (Ohio EBT) is used to distribute food assistance, because, as the agency points out, it is "[s]afer and more

secure than carrying cash or checks,” it provides “[f]aster payment,” and it is “[c]onvenient and easy to use.”¹ Recognizing the benefits of electronic payments, the State of Ohio itself requires direct deposit for its employees.²

Similarly, payroll cards offer a valuable form of electronic payment for employees without bank accounts or with limited access to traditional banking services (referred to as the underserved population). These employees are unable to receive direct deposits and are likely to be the principal users of the cards. Payroll cards guarantee underserved employees a means of accessing their full wages without cost. Without payroll cards, underserved employees often are forced to rely on expensive alternative financial services, such as check cashers, to access their wages. They endure yet more expenses when forced to purchase money orders to pay bills. These fees can be eliminated when employees are paid using a payroll card.

A payroll card—referred to as a “paycheck card” in HB 253—is a reloadable prepaid (*i.e.*, stored value) card issued to an employee through a national or regional bank, credit union, or savings and loan association on behalf of an employer. Each payday, the payroll card is electronically loaded with the full amount of the employee’s net pay.

The majority of payroll cards are branded, meaning they bear the logo of a major payment brand such as Visa or MasterCard. These cards can be used anywhere the payment brand is accepted. This includes, for example, **more than 90,000 bank branches nationwide where employees can receive their full wages from the bank teller at least once each pay period without cost.** In this way, an employee can treat his or her payroll card exactly like a paper paycheck and convert it to cash. Branding also means employees may choose to use their cards to make point-of-sale purchases, receive cash back from point of sale transactions, make purchases by mail, phone or Internet, and pay bills online. Moreover, all of the benefits offered on debit products by the major payment brands are also available on payroll cards free of charge. These include purchase protection, dispute resolution procedures, and zero-liability programs.

A recent study by the Payment Cards Center of the Federal Reserve Bank of Philadelphia revealed that many employees who use payroll cards do so without ever incurring a fee.³ However, just like employees with direct deposit who decide to access wages from an out-of-network ATM, employees with payroll cards may incur fees if they fail to take advantage of the many access methods that are offered free of charge. And, as required by law, employees are always provided with clear notice regarding fees.

Payroll Cards Are Already Subject to Significant Consumer Protections

To the extent that HB 253’s sponsors view the bill as an effort to regulate payroll cards rather than outlaw them, this effort is unnecessary. The Federal Reserve Board identified payroll cards as subject to Regulation E, which triggers many important consumer protections. For example, if a payroll card is used fraudulently, the cardholder is only liable for up to \$50 in fraud losses if he or she reports the card as lost or stolen in a timely manner. Other protections include disclosure requirements, account history access, and error resolution rights. On September 12, 2013, the Consumer Financial Protection Bureau issued a letter to several U.S.

¹ See Ohio Department of Job and Family Services, Bureau of Policy Initiatives Food Assistance Section, <http://jfs.ohio.gov/ofam/foodstamps.stm>.

² See Ohio Rev. Code § 124.151(B).

³ S. Wilshusen, R. Hunt, J. van Opstal, and R. Schneider, *Consumers’ Use of Prepaid Cards: A Transaction-Based Analysis* (FRB of Philadelphia Payment Cards Center, August 2012).

Senators and a public bulletin reiterating its view regarding federal oversight of payroll cards.⁴ A copy of the letter is attached for your review.

Businesses Benefit From Payroll Cards

Payroll cards offer businesses an efficient method of wage payment, thereby reducing the cost of doing business in Ohio. Payroll cards eliminate the cost of issuing and distributing paper paychecks and the significant cost of replacing lost and stolen checks. Furthermore, they facilitate full and timely wage payment to employees who are away from the workplace because of travel, illness, severe weather, and natural disasters.

Conclusion

The APA favors the ability of employers to compensate their employees using electronic payment methods, including payroll cards. Ohio workers and businesses should be permitted the same access to payroll cards as any other form of payment, unhindered by the prohibitive burdens of provisions like those in HB 253. **For all of these reasons, we urge you to withdraw HB 253.**

We would welcome the opportunity to discuss these issues with you further. In this regard, please feel free to contact Bill Dunn (202-232-6889) or Cathy Beyda (650-320-1824) with any questions or concerns that you may have.

Sincerely,



William Dunn, CPP
American Payroll Association
Director of Government Relations



Cathy Beyda, Esq.
American Payroll Association
Chair, Paycard Subcommittee, Government Affairs Task Force

cc:

Representative Mike Foley
Representative Robert Hagan
Representative Jack Cera
Representative John Patterson
Representative Michael Sheehy
Representative Nicki Antonio
Representative Matt Lundy
Representative Michael Stinziano
Representative Debbie Phillips
Representative Dan Ramos
Representative Mike Ashford

⁴ See Consumer Financial Protection Bureau, CFPB Bulletin 2013-10, Payroll Card Accounts (Regulation E) (September 12, 2013), available at http://files.consumerfinance.gov/f/201309_cfpb_payroll-card-bulletin.pdf.