



PAYROLL CURRENTLY

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APA Weighs in on Two Massachusetts Payroll Card Bills

On May 2, the Massachusetts Joint Committee on Labor and Workforce Development heard testimony on two bills to regulate the use of payroll debit cards. Although the titles of the bills are nearly identical, the effects are not.

Support for House bill 3135

H.B. 3135, An Act Protecting Wages of Employees Who Receive Wages Through an Electronic Wage Card, would guarantee employees the ability to withdraw their full net wages for the pay period without charge. Any fees associated with using the card after that initial withdrawal would need to be disclosed in advance, though employers would not be responsible for disclosing fees charged by third parties and out of their control (such as out-of-network ATM fees). The bill would also require that card programs provide employees with free and unlimited balance inquiries through a telephone or online system. APA supports H.B. 3135 wholeheartedly.

Opposition to Senate bill 1008

APA opposes S.B. 1008, An Act Protecting Employees Who Receive Wages by Payroll Debit Cards. The bill lifts its troubling provisions directly from the recently revoked New York wage payment regulations. Whereas the New York regulations applied to both direct deposit and payroll cards, S.B. 1008 borrowed only provisions relating to payroll cards.

S.B. 1008 would impose a seven-day cooling-off period between the time the employee provides written consent to be paid by payroll card and the time the employer takes action to issue a payment. Employers must also guarantee that employees will have "local access to one or more ATMs that offers free withdrawals at no cost to the employee." Notice and consent forms would need to be provided in English and the employee's primary language, if the state department of labor has made such forms available. S.B. 1008 also prohibits a number of fees that might be associated with use of the card.

APA opposes the Massachusetts bill for the same reasons it opposed the New York regulations. The cooling-off period denies employees access to the payment method they have chosen. It also limits the card's functionality when used in times of emergency. APA members say that the waiting period would be difficult to apply, especially when using employee self-service systems.

The fact that the bill would hold employers responsible for the locations of ATMs is particularly troubling. Employers would need to rely on their providers to remain in compliance, which could be risky. To date, APA has opposed every proposal requiring free ATM withdrawals, for two reasons. First, although ATMs can be convenient, they are not necessary for a payroll card to function. Second, because ATMs distribute cash in fixed denominations, they fail to provide employees with access to their full wages "down to the penny."

In its letter to Massachusetts, APA said that because of the "significant burden" that S.B. 1008 would impose, "employers wishing to enjoy the benefits of purely



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electronic wage payment will simply stop offering payroll cards to the detriment of their employees” (http://info.americanpayroll.org/pdfs/gov/APA_Statement-MA-H3135-S1008.pdf).

In June 2016, APA surveyed its membership regarding New York’s proposed regulations and found that less than one-third of survey respondents indicated that they were likely, very likely, or certain to continue offering payroll cards if the rule was adopted. Follow-up conversations after the rule was finalized (but not yet revoked) confirmed that some members were taking steps to cancel their payroll card programs. Some APA members also reported that their banks had notified them that they would no longer offer payroll cards in New York, which confirmed suspicions that the rule would lead to a contraction in the market, with fewer providers offering their services. There is every reason to expect a similar reaction in Massachusetts.