S T A T E O F N E W Y O R K

9335

I N A S S E M B L Y

February 16, 2012

Introduced by M. of A. LOSQUADRO -- read once and referred to the Committee on Labor

AN ACT to amend the labor law and the state finance law, in relation to payroll efficiency

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. This act shall be known and may be cited as the "Public employee payroll efficiency act."

S 2. Legislative intent: The legislature hereby declares and finds that recent innovations in payroll processing and delivery deem current processes unnecessarily expensive and inefficient. Delivery of an employee's net salary by means of an electronic funds transfer and delivery of the employee's wage statement through electronic means provides a multitude of benefits for both the employer and employee by substantially reducing the costs of the transaction and reducing the amount of time and effort required for an employee to receive his or her net salary. Furthermore, the legislature finds that delivery of cash payments by electronic means has resulted in significant savings to the federal government and the state's department of taxation and finance and department of labor without impacting entitlement of the payee. The legislature declares that New York state, being at the forefront of innovation, should apply these universally beneficial processes to the delivery of its payroll and should permit municipalities and public authorities to, at their discretion, apply these processes to their payroll for the benefit of public employers, public employees, and the taxpayers of New York state.

S 3. Section 192 of the labor law, as amended by chapter 301 of the laws of 1974, subdivision 1 as added by chapter 475 of the laws of 1981 and as renumbered by chapter 170 of the laws of 1994, and subdivision 2 as amended by chapter 304 of the laws of 2007, is amended to read as follows:

S 192. Cash payment of wages. 1. No employer shall without the advance written consent of any employee directly pay or deposit the net wage or salary of such employee in a bank or other financial institution.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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2. This section shall not apply to EMPLOYEES OF THE STATE OR TO ANY EMPLOYEES OF A MUNICIPAL CORPORATION, SCHOOL DISTRICT, BOARD OF COOPERATIVE EDUCATIONAL SERVICES, FIRE DISTRICT, STATE AUTHORITY, LOCAL AUTHORITY, OR SUBSIDIARY THAT REQUIRES PAYMENT BY ELECTRONIC FUNDS TRANSFER UNDER THE RULES ESTABLISHED BY THE STATE COMPTROLLER PURSUANT TO SUBDIVISION FOUR OF SECTION TWO HUNDRED OF THE STATE FINANCE LAW. THIS SECTION SHALL ALSO NOT APPLY TO any person employed in a bona fide executive, administrative, or professional capacity whose earnings are in excess of nine hundred dollars a week, nor to employees working on a farm not connected with a factory.

S 4. Subdivision 4 of section 200 of the state finance law, as amended by chapter 280 of the laws of 1993, and paragraphs (a) and (b) as amended by chapter 641 of the laws of 1997, is amended to read as follows:

4. (a) [Upon the written request from a state employee, the] THE comptroller may [cause,] REQUIRE, in accordance with the rules and regulations promulgated pursuant to paragraph (b) of this subdivision, [such] A STATE employee's net salary[, or any portion thereof designated by the employee,] to be deposited [directly in a bank for any purpose] BY MEANS OF ELECTRONIC FUNDS TRANSFER to an account OR DIRECT PAY CARD in the name of such employee[, on forms provided by the comptroller, and duly filed in accordance with such regulations]. FOR THE PURPOSES OF THIS SECTION "ELECTRONIC FUNDS TRANSFER" MEANS ANY TRANSFER OF FUNDS, OTHER THAN A TRANSACTION ORIGINATED BY CASH, CHECK, OR SIMILAR PAPER INSTRUMENT, THAT IS INITIATED THROUGH AN ELECTRONIC TERMINAL, TELEPHONE, COMPUTER, OR MAGNETIC TAPE, FOR THE PURPOSE OF ORDERING, INSTRUCTING, OR AUTHORIZING A FINANCIAL INSTITUTION TO DEBIT OR CREDIT AN ACCOUNT. "DIRECT PAY CARD" MEANS THE PREPAID DEBIT CARD ISSUED TO PARTICIPATING EMPLOYEES BY A FINANCIAL INSTITUTION PURSUANT TO THE RULES AND REGULATIONS ESTABLISHED BY THE COMPTROLLER.

(b) The comptroller is hereby authorized to promulgate reasonable rules and regulations, as may be necessary, to administer the [direct deposit] ELECTRONIC FUNDS TRANSFER of employees' salaries AND THE ELECTRONIC DELIVERY OF EMPLOYEE'S WAGE STATEMENT PURSUANT TO SUBDIVISION FIVE OF THIS SECTION. [In regard to the deposit of a portion of an employee's net salary, such regulations may establish a minimum dollar amount and may limit the maximum number of partial deposits allowed.] THE COMPTROLLER SHALL ALSO DESIGNATE A FINANCIAL INSTITUTION FOR THE PROVISION OF AN ELECTRONIC FUNDS TRANSFER MADE UNDER THIS SECTION BY MEANS OF A DIRECT PAY CARD. THE COMPTROLLER SHALL WORK WITH SUCH DESIGNATED FINANCIAL INSTITUTION TO ESTABLISH RULES INCLUDING BUT NOT LIMITED TO PROVIDING PAYEES ELECTRONIC ACCESS TO CARD BALANCE INFORMATION, DEBITS POSTED ON THE CARD AND PROVISIONS FOR REPLACEMENT CARDS AND FEES IN THE EVENT A PAYEE'S DEBIT CARD IS LOST OR STOLEN.

THE COMPTROLLER MAY ALSO PROMULGATE THE RULES AND REGULATIONS BY WHICH A MUNICIPAL CORPORATION, SCHOOL DISTRICT, BOARD OF COOPERATIVE EDUCATIONAL SERVICES, FIRE DISTRICT, STATE AUTHORITY, LOCAL AUTHORITY, OR SUBSIDIARY MAY, BY RESOLUTION OF ITS GOVERNING BOARD, REQUIRE ITS EMPLOYEES TO RECEIVE THEIR NET SALARY BY MEANS OF AN ELECTRONIC FUNDS TRANSFER AND THEIR WAGE STATEMENT BY MEANS OF ELECTRONIC MAIL.

(c) As used in this subdivision, the term ["bank"] "FINANCIAL INSTITUTION" shall include any financial institution which is a member of the New York automated clearing house or [any other financial institution designated by the comptroller] WHICH IS AN INSURED BANK, SAVINGS BANK, MUTUAL SAVINGS BANK, OR SAVINGS ASSOCIATION AS DEFINED IN SECTION 3 OF

12 U.S.C. 1813 OR AN INSURED CREDIT UNION AS DEFINED IN SECTION 101 OF 12 U.S.C. 1752.

S 5. Subdivision 5 of section 200 of the state finance law is renumbered subdivision 6 and a new subdivision 5 is added to read as follows:

5. THE COMPTROLLER MAY ALSO REQUIRE STATE EMPLOYEES TO RECEIVE THEIR WAGE STATEMENT BY MEANS OF THE EMPLOYEE'S STATE PROVIDED ELECTRONIC MAIL ADDRESS, OR, IN THE EVENT THE EMPLOYEE IS NOT PROVIDED A STATE ELECTRONIC MAIL ADDRESS, THE EMPLOYEE'S PERSONAL ELECTRONIC MAIL ADDRESS, AS DESIGNATED BY THE EMPLOYEE. FOR PURPOSES OF THIS SUBDIVISION "WAGE STATEMENT" MEANS A DOCUMENT THAT CONFIRMS AN ELECTRONIC FUNDS TRANSFER AND PROVIDES ANY INFORMATION ABOUT SUCH TRANSFER THAT IS REQUIRED BY LAW, RULE, OR REGULATION.

S 6. This act shall take effect January 1, 2013.