

Sen. Bradley, Dist 3
Sen. Carson, Dist 14
May 4, 2022
2022-1952s
07/10

Floor Amendment to HB 1662-FN

1 Amend the title of the bill by replacing it with the following:

2
3 AN ACT relative to the privacy obligations of the department of health and human services
4 and electronic wage payments.
5

6 Amend the bill by replacing all after section 3 with the following:

7
8 4 Labor; Weekly Wages; Electronic Payment. Amend RSA 275:43, I-II to read as follows:

9 I. Every employer shall pay all wages due to employees within 8 days after the expiration of
10 the work week if the employee is paid on a weekly basis, or within 15 days after the expiration of the
11 work week if the employee is paid on a biweekly basis, except when permitted to pay wages less
12 frequently as authorized by the commissioner pursuant to paragraph IV or IV-a(a), on regular
13 paydays designated in advance by the employer and at no cost to the employee:

14 (a) In lawful money of the United States;

15 (b) By electronic fund transfer;

16 (c) By direct deposit ~~[with written authorization of the employee]~~ to banks of the
17 employee's choice;

18 (d) By a payroll card provided that the employer shall provide to the employee at least
19 one free means to withdraw up to and including the full amount of the employee balance in the
20 employee's payroll card or payroll card account during each pay period at a financial institution or
21 other location convenient to the place of employment. ***Should an employee be unable to access
22 their wages due to a technical or processing defect, the employer shall immediately provide
23 the wages to the employee with either a replacement payroll card, a check, a direct deposit,
24 or cash. In such a situation, the employer shall be liable for late payment of wages
25 whenever the replacement wages are provided after the designated pay day. Should an
26 employee's payroll card be lost, stolen, or damaged such that the funds are no longer
27 accessible to the employee, the employer shall provide the employee with a replacement
28 payroll card within 24 hours of being notified.*** None of the employer's costs associated with a
29 payroll card or payroll card account shall be passed on to the employee; or

30 (e) With checks on a financial institution convenient to the place of employment where
31 suitable arrangements are made for the cashing of such checks by employees for the full amount of
32 the wages due; provided, however, that ~~[if an employer elects to pay employees as specified in~~

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1 ~~subparagraphs (b), (c), or (d), the employer shall offer employees the option of being paid as specified~~
2 ~~in subparagraph (e), and further provided that]~~ all wages in the nature of health and welfare fund or
3 pension fund contributions required pursuant to a health and welfare fund trust agreement, pension
4 fund trust agreement, collective bargaining agreement, or other agreement adopted for the benefit of
5 employees and agreed to by the employer shall be paid by every such employer within 30 days of the
6 date of demand for such payment, the payment to be made to the administrator or other designated
7 official of the applicable health and welfare or pension trust fund.

8 II. If an employer offers its employees the option of receiving wages by a payroll card, the
9 employer shall:

10 (a) Provide to the employee written disclosure in plain language of all the employee's
11 wage payment options. The written disclosure shall state the terms and conditions of the payroll
12 card account option, including, but not limited to, the requirements set forth in this section and a
13 complete itemized list of all known fees that may be deducted from the employee's payroll card
14 account by the employer or card issuer. The disclosure shall also state whether third parties may
15 assess transaction fees in addition to the fees assessed by the employee's payroll card issuer or
16 issuers. In no event shall the employer provide payment of wages to a payroll card that has an
17 expiration date, unless the employer agrees to provide a replacement payroll card before the
18 expiration date at no cost to the employee.

19 (b) Initiate payment of wages to an employee by electronic fund transfer to a payroll
20 card account only after the employee has ~~[voluntarily consented in writing to that method of~~
21 ~~payment. Consent to payment of wages by electronic fund transfer to a payroll card account shall~~
22 ~~not be a condition of hire or of continued employment. The written consent signed by the employee~~
23 ~~shall include the terms and conditions of the payroll card account option]~~ ***failed to provide bank***
24 ***information to enable direct deposit as specified in subparagraph I(c) within 14 calendar***
25 ***days of the employer's request. An employer that wishes to offer only electronic wage***
26 ***payment under subparagraphs I(c)-(d) shall advise employees that failure to provide bank***
27 ***information shall result in wage payments via payroll card.***

28 (c) Provide written notice of any change to any of the terms and conditions of the payroll
29 card or payroll card account, including but not limited to an itemized list of all fees that may have
30 changed~~[, and obtain written assent from the employee that the employee voluntarily consents to~~
31 ~~receive wages to a payroll card or payroll card account subject to the changes].~~ The employer shall
32 be responsible for any increase in fees charged to the employee before the employer provides written
33 notice of such changes to the employee.

34 (d) Provide the employee the option to discontinue receipt of wages by a payroll card or
35 payroll card account, ***and instead to receive wages via direct deposit,*** at any time, without
36 penalty to the employee.

37 5 Effective Date.

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- 1 I. Section 3 of this act shall take effect July 1, 2022.
- 2 II. The remainder of this act shall take effect 60 days after its passage.

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AMENDED ANALYSIS

This bill:

I. Establishes a data privacy and information technology security governance board within the department of health and human services to oversee data privacy risk calculation and risk mitigation efforts.

II. Provides for 2 employees within the department of health and human services to accomplish the data privacy and information technology security objectives.

III. Amends the provisions related to payment of an employee's wages by direct deposit.