



American Payroll Association

Government Relations • Washington, DC

September 14, 2011

The Honorable Jerry Brown
State Capitol, Suite 1173
Sacramento, CA 95814

Fax: (916) 558-3160

Re: SB 931 (Evans) Veto Request

Dear Governor Brown,

The American Payroll Association (APA) respectfully requests that you veto SB 931 (Evans), relating to payroll cards.¹ 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.

At a time when businesses are leaving the state in high numbers,² and California is fighting the reputation of being an unfavorable place to do business,³ SB 931 would increase the cost of doing business in the state by imposing strict regulations on employers who offer payroll cards. These restrictions are not crafted to accomplish the stated purpose of the bill and, indeed, are unnecessary.

Proponents of SB 931 argue that increased regulation of payroll cards is necessary because some employees who use payroll cards are being charged excessive fees. These proponents

¹ A payroll card 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 pay day, the payroll card is electronically loaded with the full amount of the employee's net pay. Payroll cards offer a valuable solution to unbanked and under-banked workers who otherwise often are forced to rely on expensive alternative financial services, such as check cashers, to access their wages and then incur additional expense when purchasing money orders to pay their bills.

² CNN Money, *California companies fleeing the Golden State* (July 12, 2011), available at http://money.cnn.com/2011/06/28/news/economy/California_companies/index.htm.

³ For the seventh year in a row, California was ranked as the worst state for business by more than 500 chief executive officers. Chief Executive Magazine, *Best/Worst States for Business* (May 3, 2011), available at <http://chiefexecutive.net/best-worst-states-for-business>.

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acknowledge that the California Labor Code already requires that workers “be able to access their wages without deduction,” but state that some employers are “flouting the law.”⁴ Even if you assume the problems the proponents complain about exist (they have offered no evidence of this fact), it is because current statutory requirements are not being enforced and not because those requirements are insufficient.

Nevertheless, SB 931 would impose a number of new requirements on the use of payroll cards in California, many of which do nothing to further the stated purpose of the Act – i.e., to protect employee access to their wages. Among several other provisions, SB 931 would require:

- Six (6) free withdrawals each pay period. Note, the California Labor Code currently requires employers to compensate their employees in cash or using a method that is convertible into cash, on demand, at full face value. Thus, when an employer pays an employee using a paycheck, the employer is responsible for providing one location in the state that will cash the check without cost to the employee. Until now, California has imposed a similar requirement on the use of payroll cards. Indeed, the wage payment statutes and regulations in every other state except Vermont simply require that employees be provided with at least one free means of accessing the total amount of their wages off their payroll card each pay period. Vermont requires three free withdrawals a pay period, still half the number required by SB 931.
- The delivery of written transaction histories, upon request, even if the employer provides the employee with a computer and a means of printing the information. This means that the payroll card provider (aka the issuer) must print and mail transaction histories to employees, if requested to do so by the employee. This is both inefficient and a waste of natural resources. The issuer will most likely pass the cost for this service onto the employer as part of their contract terms.
- Continued account maintenance and other banking services for 24 months after the card is no longer being used. In other words, even after the employment relationship ends, the employer or issuer must pay to maintain the payroll card account and mail printed transaction histories if ever requested by the employee, for two years unless the employee closes the account. The issuer cannot close the account and disperse the funds, even if there is less than one dollar in the account.
- The ability to use the payroll card for a minimum of two point-of-sale transactions per pay period without incurring a fee charged by the issuer.

These provisions go far beyond ensuring that employees have full access to their wages each pay period and would require that employers also provide a number of free banking services to their employees. **Similar restrictions are not imposed on any other method of wage payment. Indeed, it is unprecedented in the California Labor Code to require employers to provide personal services to their employees for free.**

One of two things will happen if SB 931 becomes law. Either:

- 1) Issuers will stop offering payroll cards in the state, and employers will again incur the cost of:
 - a. printing, distributing and reconciling paper paychecks,

⁴ California Labor Federation, 2011 Legislative Agenda: Regulating Payroll Cards, available at http://www.calaborfed.org/index.php/site/page/fighting_the_wall_street_banks/#payroll_paycards.

- b. processing stop payments on lost/stolen checks and
 - c. trying to mitigate check fraud
- Unbanked employees will be forced back to utilizing expensive check cashing services, or
- 2) Issuers will increase the cost of their payroll cards to employers.

Either way, SB 931 will create a further disincentive for employers to stay and consider creating new jobs in the state.

Conclusion

The APA favors the ability of employers to compensate their employees using electronic payment methods, including payroll cards. The APA supports restrictions, consistent with the Labor Code, that ensure that employees are provided with full and free access to their wages. However, SB 931 goes well beyond requiring employers to provide their employees with access to their full wages without cost, and requires employers to provide free banking services to one group of employees. SB 931 will increase the cost of doing business in California and provide a further disincentive for business to create new jobs in the state.

For the above reasons, we urge you to veto SB 931.

Please feel free to contact Bill Dunn (202-232-6889) or Cathy Beyda (650-320-1824) with any questions or if you would like to discuss these issues further.

Sincerely,



William Dunn, CPP
American Payroll Association
Senior Manager of Government Relations



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

cc: Gareth Elliott, Legislative Secretary
David Lanier, Chief Deputy Legislative Secretary
Nancy McFadden, Executive Secretary for Legislation, Appointments and Policy
Michael Rossi, Senior Advisor for Jobs and Business Development