



The Biweekly
Payroll
Compliance
Publication
Of The
American
Payroll
Association

PAYROLL CURRENTLY

Inside Washington

April 2009

APA Joins 'Green' State Effort to Promote Electronic Payments

APA's Government Relations office has joined a group headed by Visa, Inc. to promote the ability to mandate electronic pay in all states. The group has identified 20 states that appear to permit employers to offer only electronic pay and would like to see that ability expanded nationwide.

The "green" states include: Alabama, Colorado, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Mississippi, Missouri, Nebraska, North Carolina, Ohio, South Carolina, South Dakota, Tennessee, Texas, Washington, and Wisconsin.

Of these states, only Kansas specifies the ability to mandate electronic pay in its law. And because Governor Tim Kaine signed SB 1264 on March 30, 2009, Virginia will become the second state to do so, effective January 1, 2010.

The remaining states either have no wage payment provisions, meaning they follow federal law, or they allow employers to mandate direct deposit without the need to provide a paper paycheck as an alternative.

California was the first state targeted, and letters encouraging the state to amend its regulations were sent to State Labor Commissioner Angela Bradstreet. Bill Dunn, APA Manager of Government Relations, recently shared sample letters with the presidents of the 18 local APA chapters in California, encouraging members to personalize them and submit them on their own company letterhead.

According to Dunn, "Being able to tell a state regulator or lawmaker that the APA represents 23,000 payroll professionals and that we support this effort is powerful. But even more powerful is the impact that individual employers can have when they work in concert. State officials listen when someone can say, "I do business in this state, and here's how eliminating paper paychecks will affect my business."

Similar efforts will shortly be underway in Utah and Arizona, with other states to follow. Members are encouraged to join this effort. Sample letters can be downloaded from the "Green State" link at www.americanpayroll.org/government/. ■

April Showers Bring New Legislation

Few state legislatures stay in session year-round. Most are active only in the first six months, which results in a cloudburst of activity at this time of year. If bills do not make their sometimes tortuous way out of committee and through two (usually) legislative houses, they are dead. Perhaps they will get reintroduced the following year, but often not.

Vermont: paycards

Vermont is currently considering a bill setting forth the provisions under which employers may use paycards to pay employees' wages. Last year the legislature tabled a bill that would have made paycards impossible to use. This year the Senate has approved a bill under which no employer will want to use them.

The current version of SB 58 would require employers to provide card users with three free withdrawals per pay period. The current national standard is one free withdrawal. Cashing out the full value of a card usually requires a bank teller.

The requirement to provide three free withdrawals is generally understood to mean ATM withdrawals. Using a conservative estimate that the cost of producing and distributing a single paper check is \$2 and that ATM fees average the same amount, paycards would become three times as expensive as paper checks in Vermont.

The Vermont Bankers Association agrees with APA's Government Affairs Task Force that the bill would make paycards

prohibitively expensive for employers. One APA member, located in Vermont, echoed that sentiment when she told the GATF Paycard Subcommittee that her company will not offer paycards in Vermont if this provision stays in place.

The provision requiring three free withdrawals was added late in Senate deliberations. Prior to this change, APA had been quite pleased with the bill's progress, especially since the committee had incorporated all of APA's most recent recommendations, which included:

- eliminating the need for paycard providers to register with the state,
- eliminating the need for employers to obtain confirmation of the card recipient's acceptance of the paycard each time the terms and conditions of the card changed, and
- allowing employers to provide nonbranded cards (i.e., cards not carrying the logo of Visa, MasterCard, or Discover Network) on a temporary basis.

APA's letter to the Vermont Senate Committee is available at www.americanpayroll.org/government/government-007/.

As the bill moves to the House, APA will continue to express its opposition to the current language.

North Carolina: garnishment

The GATF Child Support Subcommittee is drafting comments on HB 10, a bill that would amend the state's garnishment law.

Among the favorable provisions is one that would allow employers to charge \$5 per pay period, payable by the creditor and deducted from the amount withheld to cover administrative costs.

The only truly objectionable provision relates to the duration of the order, which is set at 90 days after the employee's termination and requires that the order be placed back into effect if the employee is rehired within that period. The subcommittee sees this as an administrative burden that might be difficult to comply with.

Under this provision, employers that overlook the fact that a rehire is subject to a garnishment might incur fines or worse for their failure to withhold. APA members have noted that predatory collection agencies try to have employers held responsible for their employees' entire debts for minor infractions, such as not paying on time.

According to the subcommittee, North Carolina would be the only state with such a provision. The primary goal of the garnishment subcommittee is to make state garnishment laws more consistent.

The subcommittee's other comments seek to clarify the bill's provisions so that they are easier to understand, and therefore comply with. For example, the state's limit on the amount that may be withheld from wages conforms to that of the Consumer Credit Protection Act but in language that makes the similarities hard to decipher.

C.C.P.A. – *The maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment may not exceed—*

(1) 25 per centum of his disposable earnings for that week, or

(2) the amount by which his disposable earnings for that week exceed thirty times the federal minimum hourly wage prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938 in effect at the time the earnings are payable....

HB 10 – *The earnings of the debtor for the debtor's personal services that are less than or equal to 30 times the federal*

APA Launches New GATF Subcommittee: SSA Wage Reporting Redesign

The Social Security Administration is planning to redesign their wage reporting process over the next couple of years, and they see this as the perfect opportunity to solicit employer input as to the types of services we'd like to see. In response, APA is organizing an "SSA Wage Reporting Redesign" subcommittee within its Government Affairs Task Force. If you'd like to join, send an e-mail to APA Senior Manager of Government Relations, Scott Mezistrano, CPP, at smezistrano@americanpayroll.org. The first formal meeting between the subcommittee and SSA officials will take place at APA's annual Congress in Long Beach in May.

At a preliminary meeting between SSA officials and Mezistrano, some "wish list" ideas were suggested by both parties:

- Would employers want the option of submitting a "corrected" W-2 that would completely overwrite the W-2 it already submitted for an employee?
- Or, what if SSA could create an online, real-time process for changing already-submitted W-2 information? In such a system, instead of preparing and submitting a W-2c, an employer would access the wage record from within SSA's database and make changes as necessary.

minimum hourly wage per work week or seventy-five percent (75%) of the debtor's net income, whichever is greater, shall not be subject to attachment or garnishment."

When determining the amount that may be withheld, the most immediate questions for many payroll professionals are: (1) does the state follow federal law, and (2) if not, how does it differ?

Clarifying language in this provision and some others should help to make the law easier for employers to understand and follow.

APA supports 'sense of the Congress' on child support

Federal lawmakers are also hard at work and are providing the GATF Child Support Subcommittee some small solace as the House Budget Committee tackles the federal budget.

Nothing in the budget directly impacts child support withholding; however, Congress did approve a nonbinding "sense of the Congress" statement that "additional legislative action is needed to ensure that states have the necessary resources to collect all child support owed to families." Those resources include the means to provide customer service to employers – responsible for withholding and remitting 70% of all child support collected.

According to *Congressional Quarterly*, of 28 amendments offered, this was the only one accepted.

For the past three years, APA has been lobbying Congress to restore funding for child support agencies cut by the Deficit Reduction Act of 2005. The American Recovery and Reinvestment Act (ARRA) restored that funding on a temporary basis. The "sense of the Congress" can be seen as an acknowledgment that years of diligent effort are paying off.

Vicki Turetsky, a senior staff attorney at the Center for Law and Social Policy (CLASP), recently told APA, "The budget committee staff told me that, based on our work over the past few years, the inclusion of the child support language this year was uncontroversial. That is really great news, and a good start on pushing ahead." ■

- Should SSA develop an employer equivalent of the Earnings Statement, notifying an employer of the number of W-2s and total dollar amount of wages it filed, and perhaps giving feedback on the percentage that processed successfully?

- Should SSA accept wage data in different formats than it currently does (e.g., XML)?

- How can SSA give IRS better or quicker access to filed W-2 data, so IRS can verify wage and tax amounts before issuing tax refunds?

- How might the Obama Administration's idea to "increase the frequency with which wages are reported to SSA" be implemented? Maybe the burden of increased frequency could be tempered by decreasing the number of agencies with which an employer would file. SSA would like to re-explore the prospect of single-point filing by the employer and having various federal and state government agencies pull their files from that centralized filing hub.

While that may sound similar to the STAWRS (Simplified Tax and Wage Reporting System) project of the 1990s, SSA officials told Mezistrano that this would be different. This time around, they'd be looking only at unifying the filing process, not the data that each agency requires. ■