

As Introduced

**133rd General Assembly
Regular Session
2019-2020**

H. B. No. 648

Representative Rogers

Cosponsors: Representatives Crawley, Ingram, Lepore-Hagan, O'Brien, Sobecki

A BILL

To amend sections 9.37, 124.151, 125.21, 126.35, 1
307.55, 319.16, 321.15, and 3375.351 and to 2
enact sections 4113.90, 4113.91, 4113.92, and 3
4113.93 of the Revised Code to regulate employee 4
compensation by payroll card. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 9.37, 124.151, 125.21, 126.35, 6
307.55, 319.16, 321.15, and 3375.351 be amended and sections 7
4113.90, 4113.91, 4113.92, and 4113.93 of the Revised Code be 8
enacted to read as follows: 9

Sec. 9.37. (A) As used in this section, "public official" 10
means any elected or appointed officer, employee, or agent of 11
the state, any state institution of higher education, any 12
political subdivision, board, commission, bureau, or other 13
public body established by law. "State institution of higher 14
education" means any state university or college as defined in 15
division (A)(1) of section 3345.12 of the Revised Code, 16
community college, state community college, university branch, 17
or technical college. 18

(B) Except as provided in divisions (F) and (G) of this section, any public official may make by direct deposit of funds by electronic transfer, if the payee provides a written authorization designating a financial institution and an account number to which the payment is to be credited, any payment such public official is permitted or required by law in the performance of official duties to make by issuing a check or warrant.

(C) Such public official may contract with a financial institution for the services necessary to make direct deposits and draw lump-sum checks or warrants payable to that institution in the amount of the payments to be transferred.

(D) Before making any direct deposit as authorized under this section, the public official shall ascertain that the account from which the payment is to be made contains sufficient funds to cover the amount of the payment.

(E) If the issuance of checks and warrants by a public official requires authorization by a governing board, commission, bureau, or other public body having jurisdiction over the public official, the public official may only make direct deposits and contracts under this section pursuant to a resolution of authorization duly adopted by such governing board, commission, bureau, or other public body.

(F) Pursuant to sections 307.55, 319.16, and 321.15 of the Revised Code, a county auditor may also issue, and a county treasurer may redeem, electronic warrants authorizing ~~direct deposit for payment of county obligations either of the following~~ in accordance with rules adopted by the director of budget and management pursuant to Chapter 119. of the Revised Code:

(1) Direct deposit for payment of county obligations; 49
(2) Payment of employee compensation to a payroll card 50
account under section 4113.91 of the Revised Code. 51

(G) (1) The legislative authority of a municipal 52
corporation, for public officials of the municipal corporation, 53
a county auditor, for county public officials, or a board of 54
township trustees, for township public officials, may adopt a 55
direct deposit payroll policy under which all public officials 56
of the municipal corporation, all county public officials, or 57
all township public officials, as the case may be, provide a 58
written authorization designating a financial institution and an 59
account number to which payment of the public official's 60
compensation shall be credited under the municipal 61
corporation's, county's, or township's direct deposit payroll 62
policy. The direct deposit payroll policy adopted by the 63
legislative authority of a municipal corporation, a county 64
auditor, or a board of township trustees may exempt from the 65
direct deposit requirement those municipal, county, or township 66
public officials who cannot provide an account number, or for 67
other reasons specified in the policy. The written authorization 68
is not a public record under section 149.43 of the Revised Code. 69

(2) The county auditor or board of township trustees may 70
adopt a payroll card account policy under which public officials 71
exempted from a direct deposit requirement under division (G) (1) 72
of this section provide an authorization to be paid through a 73
payroll card account under section 4113.91 of the Revised Code. 74
The authorization is not a public record under section 149.43 of 75
the Revised Code. 76

Sec. 124.151. (A) As used in this section, "compensation" 77
includes, but is not limited to, wages and salary, travel 78

allowances paid pursuant to section 101.27 of the Revised Code, 79
and benefits paid pursuant to sections 124.13, 124.19, 124.381, 80
124.382, 124.383, 124.384, 124.385, and 124.386 of the Revised 81
Code. 82

(B) (1) The compensation of any employee who is paid by 83
warrant of the director of budget and management shall be paid 84
by direct deposit or to a payroll card account in accordance 85
with section 4113.91 of the Revised Code. ~~Each~~ 86

(a) If payment is made by direct deposit, each such 87
employee shall provide to the appointing authority a written 88
authorization for payment by direct deposit. The authorization 89
shall include the designation of a financial institution 90
equipped to accept direct deposits and the number of the account 91
into which the deposit is to be made. The authorization shall 92
remain in effect until withdrawn in writing by the employee or 93
until dishonored by the financial institution. The director of 94
administrative services shall provide by rule adopted under 95
Chapter 119. of the Revised Code for the direct deposit in a 96
financial institution of the compensation of an employee who 97
fails to provide to the appointing authority a written 98
authorization for payment by direct deposit. 99

(b) If payment is made to a payroll card account under 100
section 4113.91 of the Revised Code, the director of 101
administrative services or appointing authority shall comply 102
with sections 4113.90 to 4113.93 of the Revised Code as if the 103
director or appointing authority were an employer as defined in 104
section 4113.90 of the Revised Code. 105

(2) Division (B) (1) of this section does not apply to an 106
employee who was appointed to the employee's current position 107
before June 5, 2002, who is a public employee as defined in 108

section 4117.01 of the Revised Code, and whose applicable 109
collective bargaining agreement does not require the employee to 110
be paid by direct deposit. 111

Sec. 125.21. (A) The director of administrative services 112
shall process payroll information for the purpose of payment for 113
personal services of state officials and employees on the basis 114
of rates of pay determined by pertinent law, the director, or 115
other competent authority. 116

Calculation of payrolls may be made after the conclusion 117
of each pay period based upon the amount of time served as 118
certified by the appropriate appointing authority. Payment for 119
personal service rendered by an official or employee during any 120
pay period shall be made no later than at the conclusion of the 121
official's or employee's next succeeding pay period. 122

The director of administrative services shall furnish to 123
the director of budget and management all necessary data for 124
drawing state official and employee pay warrants and preparing 125
earning statements. These data shall include ~~the~~ all of the 126
following: 127

(1) The rate at which paid; ~~the~~ 128

(2) The time for which paid, including overtime and any 129
other adjustments affecting the official's or employee's gross 130
pay; ~~all~~ 131

(3) All taxes withheld, including, whenever practicable, 132
year-to-date figures on all taxes withheld; ~~the~~ 133

(4) The amount of contribution to the appropriate 134
retirement system; ~~any~~ 135

(5) Any voluntary deductions made in accordance with 136

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| authorizations filed by the official or employee; and whether | 137 |
| <u>(6) Whether a direct deposit, or payment to a payroll card</u> | 138 |
| <u>account under section 4113.91 of the Revised Code,</u> is to be made | 139 |
| in accordance with an authorization filed by the official or | 140 |
| employee. | 141 |
| <u>(B) Amounts deducted from the salaries or wages of all</u> | 142 |
| officials and employees shall be transferred to the payroll | 143 |
| deduction fund, which is hereby created in the state treasury | 144 |
| for the purpose of consolidating all such deductions made in any | 145 |
| month. Payments from this fund shall be made at intervals for | 146 |
| the intended purpose of the deduction or for refund where it is | 147 |
| determined that deductions were made in error. | 148 |
| Sec. 126.35. (A) The director of budget and management | 149 |
| shall draw warrants or process electronic funds transfers | 150 |
| against the treasurer of state pursuant to all requests for | 151 |
| payment that the director has approved under section 126.07 of | 152 |
| the Revised Code. | 153 |
| (B) <u>(1)</u> Unless a cash assistance payment is to be made by | 154 |
| electronic benefit transfer, payment by the director of budget | 155 |
| and management to a participant in the Ohio works first program | 156 |
| pursuant to Chapter 5107. of the Revised Code or a recipient of | 157 |
| cash assistance provided under the refugee assistance program | 158 |
| established under section 5101.49 of the Revised Code shall be | 159 |
| made by direct deposit to the account of the participant or | 160 |
| recipient in the financial institution designated under section | 161 |
| 329.03 of the Revised Code. | 162 |
| <u>(2)</u> Payment by the director of budget and management to a | 163 |
| recipient of benefits distributed through the medium of | 164 |
| electronic benefit transfer pursuant to section 5101.33 of the | 165 |

Revised Code shall be by electronic benefit transfer. 166

(3) Payment by the director of budget and management as 167
compensation to an employee of the state who has, pursuant to 168
division (B) (1) (a) of section 124.151 of the Revised Code, 169
designated a financial institution and account for the direct 170
deposit of such payments shall be made by direct deposit to the 171
account of the employee. Payment to any other payee who has 172
designated a financial institution and account for the direct 173
deposit of such payment may be made by direct deposit to the 174
account of the payee in the financial institution as provided in 175
section 9.37 of the Revised Code. 176

~~Accounts—(4) Payment by the director of budget and~~ 177
~~management as compensation to an employee of the state who has,~~ 178
~~pursuant to division (B) (1) (b) of section 124.151 of the Revised~~ 179
~~Code, designated a financial institution and payroll card~~ 180
~~account for such payments shall be made by crediting the payroll~~ 181
~~card account of the employee.~~ 182

(5) Accounts maintained by the director of budget and 183
management or the director's agent in a financial institution 184
for the purpose of effectuating payment by direct deposit ~~or, by~~ 185
electronic benefit transfer, or to a payroll card account shall 186
be maintained in accordance with section 135.18 of the Revised 187
Code. 188

(C) All other payments from the state treasury shall be 189
made by paper warrants, electronic funds transfers, or by direct 190
deposit payable to the respective payees. The director of budget 191
and management may mail the paper warrants to the respective 192
payees or distribute them through other state agencies, 193
whichever the director determines to be the better procedure. 194

Sec. 307.55. (A) No claims against the county shall be 195
paid otherwise than upon the allowance of the board of county 196
commissioners, upon the warrant, including an electronic warrant 197
authorizing either direct deposit for payment of a county 198
obligation or payment of employee compensation to a payroll card 199
account in accordance with division (F) of section 9.37 of the 200
Revised Code, of the county auditor, except in those cases in 201
which the amount due is fixed by law or is authorized to be 202
fixed by some other person or tribunal, in which case it shall 203
be paid upon the warrant of the auditor upon the proper 204
certificate of the person or tribunal allowing the claim. 205

(B) No public money shall be disbursed by the board or any 206
of its members, but shall be disbursed by the county treasurer, 207
upon the warrant, including an electronic warrant authorizing 208
either direct deposit for payment of a county obligation or 209
payment of employee compensation to a payroll card account in 210
accordance with division (F) of section 9.37 of the Revised 211
Code, of the auditor specifying the name of the party entitled 212
to such money, on what account, and upon whose allowance, if not 213
fixed by law. 214

Sec. 319.16. The county auditor shall issue warrants, 215
including electronic warrants authorizing direct deposit for 216
payment of county obligations or payment of employee 217
compensation to a payroll card account in accordance with 218
division (F) of section 9.37 of the Revised Code, on the county 219
treasurer for all moneys payable from the county treasury, upon 220
presentation of the proper order or voucher and evidentiary 221
matter for the moneys, ~~and~~. The county shall keep a record of 222
all such warrants showing the number, date of issue, amount for 223
which drawn, in whose favor, for what purpose, and on what fund. 224
The auditor shall not issue a warrant for the ~~payment~~ of any 225

claim against the county, unless it is allowed by the board of 226
county commissioners, except where the amount due is fixed by 227
law or is allowed by an officer or tribunal, including a county 228
board of mental health or county board of developmental 229
disabilities, so authorized by law. If the auditor questions the 230
validity of an expenditure that is within available 231
appropriations and for which a proper order or voucher and 232
evidentiary matter is presented, the auditor shall notify the 233
board, officer, or tribunal who presented the voucher. If the 234
board, officer, or tribunal determines that the expenditure is 235
valid and the auditor continues to refuse to issue the 236
appropriate warrant on the county treasury, a writ of mandamus 237
may be sought. The court shall issue a writ of mandamus for 238
issuance of the warrant if the court determines that the claim 239
is valid. 240

Evidentiary matter includes original invoices, receipts, 241
bills and checks, and legible copies of contracts. 242

Sec. 321.15. No money shall be paid from the county 243
treasury, or transferred to any person for disbursement, except 244
on the warrant of the county auditor, including an electronic 245
warrant authorizing ~~direct deposit, either of the following in~~ 246
accordance with division (F) of section 9.37 of the Revised 247
Code, ~~for payment of county obligations.~~ 248

(A) Direct deposit for payment of county obligations; 249

(B) Payment of employee compensation to a payroll card 250
account. 251

Sec. 3375.351. The fiscal officer of each board of library 252
trustees appointed under section 3375.06, 3375.10, 3375.12, 253
3375.15, 3375.22, or 3375.30 of the Revised Code may also pay 254

the compensation of each employee of the library under the 255
board's jurisdiction by ~~direct~~ either of the following methods: 256

(A) Direct deposit, as defined in section 131.01 of the 257
Revised Code. If direct deposit is chosen as the desired form of 258
compensation by the board of library trustees for its employees, 259
each employee shall provide to the fiscal officer a written 260
authorization for payment by direct deposit. The authorization 261
shall include the designation of a financial institution 262
equipped to accept direct deposits and the number of the account 263
into which the deposit is to be made. The authorization shall 264
remain in effect until withdrawn in writing by the employee or 265
until dishonored by the financial institution. 266

(B) Payroll card account under section 4113.91 of the 267
Revised Code. 268

Sec. 4113.90. As used in sections 4113.90 to 4113.93 of 269
the Revised Code: 270

(A) "Compensation" includes wages, salary, commissions, 271
and any unrestricted form of monetary compensation. 272

(B) "Employee" means any person who performs a service for 273
compensation for an employer. 274

(C) "Employer" means any person who has one or more 275
employees and includes any agent of an employer. "Employer" 276
includes the state and any political subdivision of the state, 277
except "employer" does not include either of the following: 278

(1) A municipal corporation; 279

(2) A county that has adopted a charter under Section 3 of 280
Article X, Ohio Constitution, to the extent that it is 281
exercising the powers of local self-government as provided in 282

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| <u>that charter and is subject to Section 3 of Article XVIII, Ohio</u> | 283 |
| <u>Constitution.</u> | 284 |
| <u>(D) "Financial institution" means all of the following:</u> | 285 |
| <u>(1) A bank, as defined in section 1101.01 of the Revised</u> | 286 |
| <u>Code;</u> | 287 |
| <u>(2) A credit union and a foreign credit union, authorized</u> | 288 |
| <u>to do business in this state, as those terms are defined in</u> | 289 |
| <u>section 1733.01 of the Revised Code;</u> | 290 |
| <u>(3) A federal credit union, as defined in 12 U.S.C. 1752.</u> | 291 |
| <u>(E) "Payroll card account" means an account that is</u> | 292 |
| <u>directly or indirectly established by an employer for the</u> | 293 |
| <u>purpose of making recurring electronic fund transfers of the</u> | 294 |
| <u>employee's wages, salary, or other compensation.</u> | 295 |
| <u>(F) "Political subdivision" means any body corporate and</u> | 296 |
| <u>politic that is responsible for governmental activities in a</u> | 297 |
| <u>geographic area smaller than the state.</u> | 298 |
| <u>Sec. 4113.91. (A) An employer may pay an employee's</u> | 299 |
| <u>compensation by credit to an account in a financial institution,</u> | 300 |
| <u>including a payroll card account, authorized to accept deposits</u> | 301 |
| <u>or payments if the employee has authorized the method of payment</u> | 302 |
| <u>in writing or electronically. An authorization for compensation</u> | 303 |
| <u>by means of a payroll card account made before the effective</u> | 304 |
| <u>date of this section remains valid until the employee requests a</u> | 305 |
| <u>change of compensation method in accordance with division (I) of</u> | 306 |
| <u>section 4113.92 of the Revised Code.</u> | 307 |
| <u>(B) When compensation is transferred to an account at a</u> | 308 |
| <u>financial institution as described in division (A) of this</u> | 309 |
| <u>section, both of the following apply:</u> | 310 |

(1) The financial institution shall provide the employee 311
or other payee with the disclosures, notices, access to account 312
information, and other consumer protections to the extent 313
required by 12 C.F.R. Part 1005. 314

(2) The employer shall provide the employee a written or 315
electronic statement of earnings and deductions each pay period. 316

Sec. 4113.92. When an employer pays an employee through 317
transfers to a payroll card account, all of the following apply: 318

(A) The financial institution shall issue a payroll card 319
in accordance with 12 C.F.R. 1005.18. 320

(B) The employer shall establish the payroll card account 321
at a financial institution whose funds are insured by the 322
federal deposit insurance corporation or the national credit 323
union administration. 324

(C) No employer shall make compensation by means of a 325
payroll card account a condition of employment or a condition 326
for the receipt of any benefit or other form of remuneration for 327
any employee. 328

(D) Before an employee's authorization to receive 329
compensation by means of a payroll card account, the employer 330
shall provide the employee clear and conspicuous notice, in 331
writing or electronically, of all of the following: 332

(1) All of the employee's wage payment options; 333

(2) That third parties may assess fees in addition to the 334
fees assessed by the card issuer; 335

(3) The methods available to the employee for accessing 336
compensation without fees. 337

- (E) The payroll card account shall provide the employee 338
the ability without charge to make all of the following: 339
- (1) At least one withdrawal each pay period for any amount 340
up to the full amount of the employee's net compensation for 341
that pay period or one such withdrawal weekly if the employee is 342
paid more frequently than weekly; 343
- (2) One in-network automated teller machine withdrawal 344
each pay period or one such withdrawal weekly if the employee is 345
paid more frequently than weekly. 346
- (F) The payroll card account shall provide the employee a 347
means of ascertaining the balance in the employee's payroll card 348
account through an automated telephone system or other 349
electronic means without cost to the employee. 350
- (G) An employer shall not charge fees, or use a payroll 351
card account that charges fees, to the employee for any of the 352
following: 353
- (1) The application, initiation, or privilege of 354
participating in the payroll card program; 355
- (2) The issuance of the initial payroll card; 356
- (3) The issuance of one replacement card per calendar year 357
on request of the employee; 358
- (4) The transfer of compensation from the employer to the 359
payroll card account; 360
- (5) Domestic purchase transactions at the point of sale. 361
Division (G) (5) of this section shall not be construed as 362
prohibiting a merchant from charging such a fee. 363
- (6) Nonuse of or inactivity in a payroll card account 364

consisting of failure to withdraw funds from an account, 365
transfer funds into an account, transfer funds to another 366
person, or use an account for purchase transactions, if the 367
nonuse or inactivity is less than one year in duration. 368

(H) The funds in a payroll card account shall not expire. 369
If a payroll card has an expiration date during the period when 370
the employer transfers compensation to the payroll card account 371
and within sixty days after the last transfer of compensation, 372
the financial institution shall provide the employee a 373
replacement card without cost prior to the expiration date, 374
unless before that date the account becomes unclaimed funds 375
pursuant to section 169.01 of the Revised Code or pursuant to 376
the unclaimed property or escheat law of another state. 377

(I) The employer shall honor the employee's written or 378
electronic request to change the employee's method of receiving 379
compensation from a payroll card account to direct deposit. The 380
change shall take effect as soon as practicable, but not later 381
than the first payday after fourteen days from receipt by the 382
employer of the employee's request and any information necessary 383
to implement the change. 384

Sec. 4113.93. Nothing in sections 4113.90 to 4113.92 of 385
the Revised Code shall be construed to override the terms of any 386
collective bargaining agreement with respect to the methods by 387
which an employer provides compensation to employees. 388

Section 2. That existing sections 9.37, 124.151, 125.21, 389
126.35, 307.55, 319.16, 321.15, and 3375.351 of the Revised Code 390
are hereby repealed. 391