

**As Introduced**

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

**H. B. No. 648**

**Representative Rogers**

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

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**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

authorizations filed by the official or employee; <del>and whether</del>	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
<b>Sec. 126.35.</b> (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

<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
<b><u>Sec. 4113.91. (A) An employer may pay an employee's</u></b>	299
<b><u>compensation by credit to an account in a financial institution,</u></b>	300
<b><u>including a payroll card account, authorized to accept deposits</u></b>	301
<b><u>or payments if the employee has authorized the method of payment</u></b>	302
<b><u>in writing or electronically. An authorization for compensation</u></b>	303
<b><u>by means of a payroll card account made before the effective</u></b>	304
<b><u>date of this section remains valid until the employee requests a</u></b>	305
<b><u>change of compensation method in accordance with division (I) of</u></b>	306
<b><u>section 4113.92 of the Revised Code.</u></b>	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