



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB5622

by Rep. Arthur Turner

#### SYNOPSIS AS INTRODUCED:

820 ILCS 115/2	from Ch. 48, par. 39m-2
820 ILCS 115/4	from Ch. 48, par. 39m-4
820 ILCS 115/14.5 new	

Amends the Illinois Wage Payment and Collection Act. Establishes requirements for the use of payroll cards by employers. Provides that receipt of wages by means of a payroll card may not be a condition of employment. Requires certain disclosures to be made to employees before using payroll cards. Requires the offer of an alternative means of payment to be available. Establishes limits on fees. Effective January 1, 2015.

LRB098 19212 JLS 54364 b

FISCAL NOTE ACT  
MAY APPLY

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

A BILL FOR

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Wage Payment and Collection Act is  
5 amended by changing Sections 2 and 4 and by adding Section 14.5  
6 as follows:

7 (820 ILCS 115/2) (from Ch. 48, par. 39m-2)

8 Sec. 2. For all employees, other than separated employees,  
9 "wages" shall be defined as any compensation owed an employee  
10 by an employer pursuant to an employment contract or agreement  
11 between the 2 parties, whether the amount is determined on a  
12 time, task, piece, or any other basis of calculation. Payments  
13 to separated employees shall be termed "final compensation" and  
14 shall be defined as wages, salaries, earned commissions, earned  
15 bonuses, and the monetary equivalent of earned vacation and  
16 earned holidays, and any other compensation owed the employee  
17 by the employer pursuant to an employment contract or agreement  
18 between the 2 parties. Where an employer is legally committed  
19 through a collective bargaining agreement or otherwise to make  
20 contributions to an employee benefit, trust or fund on the  
21 basis of a certain amount per hour, day, week or other period  
22 of time, the amount due from the employer to such employee  
23 benefit, trust, or fund shall be defined as "wage supplements",

1 subject to the wage collection provisions of this Act.

2 As used in this Act, the term "employer" shall include any  
3 individual, partnership, association, corporation, limited  
4 liability company, business trust, employment and labor  
5 placement agencies where wage payments are made directly or  
6 indirectly by the agency or business for work undertaken by  
7 employees under hire to a third party pursuant to a contract  
8 between the business or agency with the third party, or any  
9 person or group of persons acting directly or indirectly in the  
10 interest of an employer in relation to an employee, for which  
11 one or more persons is gainfully employed.

12 As used in this Act, the term "employee" shall include any  
13 individual permitted to work by an employer in an occupation,  
14 but shall not include any individual:

15 (1) who has been and will continue to be free from  
16 control and direction over the performance of his work,  
17 both under his contract of service with his employer and in  
18 fact; and

19 (2) who performs work which is either outside the usual  
20 course of business or is performed outside all of the  
21 places of business of the employer unless the employer is  
22 in the business of contracting with third parties for the  
23 placement of employees; and

24 (3) who is in an independently established trade,  
25 occupation, profession or business.

26 The following terms shall apply to an employer's use of

1 payroll cards to pay wages to an employee under the  
2 requirements of this Act:

3 "Payroll card" means a card issued to an employee by an  
4 employer or other payroll card issuer as a means of accessing  
5 the employee's payroll card account.

6 "Payroll card account" means an account into which an  
7 employer directly or indirectly deposits each participating  
8 employee's wages on a recurring basis through an electronic  
9 fund transfer.

10 "Payroll card issuer" means an employer, bank, financial  
11 institution, or other entity that issues a payroll card to an  
12 employee under an employer payroll card program.

13 (Source: P.A. 94-1025, eff. 7-14-06.)

14 (820 ILCS 115/4) (from Ch. 48, par. 39m-4)

15 Sec. 4. All wages earned by any employee during a  
16 semi-monthly or bi-weekly pay period shall be paid to such  
17 employee not later than 13 days after the end of the pay period  
18 in which such wages were earned. All wages earned by any  
19 employee during a weekly pay period shall be paid not later  
20 than 7 days after the end of the weekly pay period in which the  
21 wages were earned. All wages paid on a daily basis shall be  
22 paid insofar as possible on the same day as the wages were  
23 earned, or not later in any event than 24 hours after the day  
24 on which the wages were earned. Wages of executive,  
25 administrative and professional employees, as defined in the

1 Federal Fair Labor Standards Act of 1938, may be paid on or  
2 before 21 calendar days after the period during which they are  
3 earned.

4 The terms of this Section shall not apply, if there exists  
5 a valid collective bargaining agreement which provides for a  
6 different date or for different arrangements for the payment of  
7 wages.

8 Employers shall pay to workers on strike or layoff, no  
9 later than the next regular payday, all wages earned up to the  
10 time of such strike or layoff.

11 Any employee who is absent at the time fixed for payment,  
12 or who for any other reason is not paid at that time, shall be  
13 paid upon demand at any time within a period of 5 days after  
14 the time fixed for payment; and after the expiration of the 5  
15 day period, payment shall be made upon 5 days demand. Payment  
16 to the absent employee shall be made by mail if the employee so  
17 requests in writing.

18 All wages and final compensation shall be paid in lawful  
19 money of the United States, by check, redeemable upon demand  
20 and without discount at a bank or other financial institution  
21 readily available to the employee, or by deposit of funds in an  
22 account in a bank or other financial institution designated by  
23 the employee, or by a payroll card that meets the requirements  
24 of Section 14.5. No employer may designate a particular  
25 financial institution, bank, savings bank, savings and loan, or  
26 currency exchange for the exclusive payment or deposit of a

1 check for wages. No financial institution, bank, savings bank,  
2 savings and loan, or currency exchange shall refuse to honor a  
3 check for wages that exclusively designates, in violation of  
4 this Section, a particular bank, savings bank, savings and  
5 loan, or currency exchange as the exclusive place of payment or  
6 deposit except to the extent the bank, savings bank, savings  
7 and loan, or currency exchange is otherwise excused from  
8 honoring the check under Section 3-111 of the Uniform  
9 Commercial Code because the bank, savings bank, savings and  
10 loan, or currency exchange is not the drawee or the maker of  
11 the check.

12 (Source: P.A. 89-364, eff. 8-18-95.)

13 (820 ILCS 115/14.5 new)

14 Sec. 14.5. Payroll cards. An employer using a payroll card  
15 to pay an employee's wages shall meet the following  
16 requirements:

17 (1) The employer shall not make receipt of wages by  
18 payroll card a condition of employment for any employee.

19 (2) The employer shall not initiate payment of wages to  
20 the employee by electronic fund transfer to a payroll card  
21 account unless:

22 (A) the employer provides the employee with a  
23 written disclosure, in plain language, explaining the  
24 terms and conditions of the payroll card account  
25 option, including:

1           (i) an itemized list of all fees that may be  
2           deducted from the employee's payroll card account  
3           by the employer or payroll card issuer; and

4           (ii) a notice that third parties may assess  
5           transaction fees in addition to the fees assessed  
6           by the employee's payroll card issuer;

7           (B) the employer also offers the employee the  
8           options of payment by paper check or direct deposit to  
9           a depository account designated by the employee; and

10           (C) the employer obtains the employee's voluntary  
11           written consent to receive the wages by payroll card.

12           (3) A payroll card program offered by the employer  
13           shall provide the employee with:

14           (A) at least one ATM withdrawal per pay period at  
15           no cost to the employee and at a location within a  
16           reasonable distance of the employee's place of  
17           employment;

18           (B) at least one method of withdrawing the entire  
19           balance on the card for each pay period without  
20           incurring a fee;

21           (C) at the employee's request, one transaction  
22           history each month that includes all deposits,  
23           withdrawals, deductions, or charges by any entity from  
24           or to the employee's payroll card account at no cost to  
25           the employee; and

26           (D) a reasonable method for the employee to obtain

1           the payroll card account balance on the payroll card at  
2           any time without incurring a fee.

3           (4) An employer may not use a payroll card program that  
4           includes fees for account inactivity, declined  
5           transactions, point of sale transactions, or an  
6           application, initiation, loading, participation, or any  
7           other fee to receive wages or to hold the payroll card.

8           (5) The payroll card or payroll card account may not be  
9           linked to any form of credit including, but not limited to,  
10          a loan against future pay or a cash advance on future pay.

11          (6) An employee paid wages by payroll card may request  
12          to be paid wages by any other method set forth in Section  
13          4. Following the request, the employer shall, within 2 pay  
14          periods, begin payment to the employee by the allowable  
15          method requested by the employee.

16          Section 99. Effective date. This Act takes effect January  
17          1, 2015.