

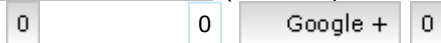
New Rhode Island Legislation Will Allow Bi-Monthly Payment of Wages

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On July 15, 2013, Rhode Island passed highly anticipated legislation that will allow employers to pay their employees on a bi-monthly basis (rather than weekly, as the law had previously required). The law goes into effect on January 1, 2014, and it authorizes the Rhode Island Department of Labor and Training to issue permits to employers that will allow them to make bi-monthly wage payments. On the permit application, employers must identify the specific positions for which they intend to pay bi-monthly and satisfy one of the two prerequisites below:

- If the employer's total payroll for the petitioned-for employees, when averaged over the total number of employees in the petitioned-for group, exceeds twice the minimum wage per employee:
 - o The employer must pay wages on pre-designated dates that occur at least twice a month;
 - o The employer must provide a surety bond or some other form of security in the amount of its highest bi-weekly payroll exposure from the previous year; and
 - o If the petitioned-for employees are part of a union, the employer must obtain written consent from a union representative before making the change.
- If the employer's total payroll for the petitioned-for employees, when averaged over the total number of employees in the petitioned-for group, is equal to or less than twice the minimum wage per employee:
 - o The employer must demonstrate "good and sufficient reason" for switching to bi-monthly paydays;
 - o The employer must detail for the Department of Labor and Training (1) the method of payment; (2) the frequency of payment; (3) the designated paydays;

- (4) the classification of the petitioned-for employees; (5) the salary ranges for the petitioned-for employees; and (6) the employer's federal identification number;
- o The employer must pay wages on pre-designated dates that occur at least twice a month;
- o The employer must have no history of wage and hour violations;
- o The employer must provide a surety bond or some other form of security for the highest bi-weekly payroll exposure in the previous year; and
- o If the petitioned-for employees are part of a union, the employer must obtain written consent from a union representative before making the change.

Noticeably absent from the law is a definition of what constitutes a "good and sufficient reason" for switching to bi-monthly paydays. It will be up to the Department of Labor and Training to provide employers with regulatory guidance.

Rhode Island's weekly pay requirement often took local and out-of-state employers by surprise, and pro-business groups have been trying for years to get the law changed. Under the new law, barring any change in an employer's qualifying criteria or a later commission of a wage and hour violation, an employer's permit to pay employees bi-monthly will be indefinite.

Note: This article was published in the August 2013 issue of the *Rhode Island eAuthority*.

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