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Wage & Hour Law Update

West Virginia Enacts Changes to Payroll Card Method of Wage Payment

By Marla N. Presley & Andrew F. Maunz on March 25, 2022

During its latest legislative session, West Virginia passed Senate Bill 245, thereby enacting several changes to its wage payment provisions using payroll cards. These changes become effective on June 9, 2022, 90 days after passage of the Bill.

While payroll cards already were an authorized method of paying employee wages, both the employer and the employee had to agree to use of the pay method. That is no longer the case. Under SB 245, which amends Sections 21-5-3 and 21-5-4 of the Wage Payment and Collection Act, the employer may unilaterally elect to pay employee wages via payroll card, provided the employer discloses in writing any applicable fees associated with the payroll card.

In addition, the employee must have the ability to make *at least one* withdrawal or transfer from the payroll card per pay period without cost or fee, for any amount up to the amount contained on the card, and must be able to make *unlimited in-network* withdrawals or transfers from the payroll card without any cost or fee, for any amount up to the amount contained on the card. Finally, employers who use payroll cards must give employees the option of being paid by electronic transfer (*i.e.*, direct deposit) instead.

Employers in West Virginia who are, or who are contemplating, using payroll cards to compensate their employees should ensure compliance with these new provisions by the June 2022 effective date. If you have any questions about this development or any other wage and hour issue, please consult a Jackson Lewis attorney.

