

House Study Bill 94 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED ATTORNEY GENERAL
BILL)

A BILL FOR

1 An Act permitting the voluntary receipt by employees of payment
2 of wages by debit card or pay card and making penalties and
3 remedies applicable.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 91A.3, subsection 3, Code 2015, is
2 amended to read as follows:

3 3. *a.* The wages paid under subsection 1 shall be paid using
4 a method authorized by this section.

5 *b.* Wages due may be paid at the employee's normal place of
6 employment during normal employment hours or at a place and
7 hour mutually agreed upon by the employer and employee,~~or the~~
8 ~~employee may elect to have the wages sent for direct deposit,
9 ~~on or by the regular payday of the employee, into a financial~~
10 ~~institution designated by the employee.~~~~

11 *c.* Upon written request by the employee, wages due may be
12 sent to the employee by mail. The employer shall maintain a
13 copy of the request for as long as it is effective and for at
14 least two years thereafter.

15 *d.* The employee may elect to have wages due sent for
16 direct deposit, on or by the regular payday of the employee,
17 into a financial institution designated by the employee. An
18 employee hired on or after July 1, 2005, may be required, as
19 a condition of employment, to participate in direct deposit
20 of the employee's wages in a financial institution of the
21 employee's choice unless any of the following conditions exist:

22 (1) The costs to the employee of establishing and
23 maintaining an account for purposes of the direct deposit would
24 effectively reduce the employee's wages to a level below the
25 minimum wage provided under section 91D.1.

26 (2) The employee would incur fees charged to the employee's
27 account as a result of the direct deposit.

28 (3) The provisions of a collective bargaining agreement
29 mutually agreed upon by the employer and the employee
30 organization prohibit the employer from requiring an employee
31 to sign up for direct deposit as a condition of hire.

32 *e.* (1) An employer may offer payment of wages by debit
33 card or pay card pursuant to this section only if the employer
34 complies with all of the following requirements:

35 (a) The employer shall provide the employee with a clear and

1 conspicuous written disclosure when payment by debit card or
2 pay card is offered to the employee notifying the employee that
3 receipt of payment by debit card or pay card is voluntary on
4 the employee's part and listing the other method or methods of
5 payment offered by the employer.

6 (b) The employer shall provide the employee written notice
7 when payment by debit card or pay card is offered to the
8 employee of all possible charges for use of the debit card or
9 pay card. The employer shall also provide the employee written
10 notice in advance of any change in the amount or frequency of
11 such charges.

12 (c) The employer shall provide the employee written notice
13 when payment by debit card or pay card is offered to the
14 employee of all possible fees that may be deducted from the
15 employee's debit card or pay card account by the employer or
16 card issuer.

17 (d) The employer shall provide a written explanation to the
18 employee when payment by debit card or pay card is offered to
19 the employee as to how the employee may obtain, at no cost, the
20 employee's net wages, check the account balance, and request to
21 receive paper or electronic transaction histories, as provided
22 in this paragraph "e".

23 (e) The employer shall not use a debit card or pay card that
24 charges fees for any of the following:

25 (i) Point of sale transactions.

26 (ii) The application, initiation, or loading of wages by
27 the employer.

28 (iii) Declined transactions occurring two or fewer times in
29 a month, or fees beyond actual costs of processing the declined
30 transactions for all other declined transactions.

31 (iv) Account inactivity prior to three hundred sixty-five
32 days following activation of the debit card or pay card.

33 (v) For receiving wages by debit card or pay card.

34 (f) An employer shall not offer payment of wages by a debit
35 card or pay card pursuant to this section linked to any form of

1 credit including but not limited to overdraft fees or overdraft
2 service fees, a loan against future pay, or a cash advance on
3 future pay or work not yet performed.

4 (g) If an employee elects to have wages due paid by debit
5 card or pay card pursuant to this section, the employer shall
6 obtain the employee's written consent to payment by debit card
7 or pay card. The employer shall obtain such consent without
8 coercion or the imposition of fear of discharge or reprisal.

9 (h) If an employee elects to have wages due paid by debit
10 card or pay card pursuant to this section, the employer shall
11 retain copies of the employee's written consent, the notice of
12 charges, and the notice of fees for a period of not less than
13 two years from the date of the employee's written consent and
14 from the dates the notice of charges and the notice of fees are
15 given to the employee.

16 (i) If an employee who has elected to have wages due paid by
17 debit card or pay card pursuant to this section requests that
18 the employer terminate payment by debit card or pay card, the
19 employer shall substitute another payment method in accordance
20 with this section no later than two pay periods after receiving
21 such request.

22 (2) An employer may offer payment of wages by debit card or
23 pay card pursuant to this section only if the debit card or pay
24 card provides the employee with all of the following:

25 (a) At least one method of withdrawing the employee's full
26 net wages from the debit card or pay card at least once per pay
27 period, but not less than twice per month, at no cost to the
28 employee, at a location readily available to the employee.

29 (b) One transaction history at no cost to the employee,
30 which the employee may request to receive in paper or
31 electronic form, each month that includes all deposits,
32 withdrawals, deductions, or charges by any entity from or to
33 the employee's debit card or pay card account.

34 (c) Unlimited telephone access to obtain the debit card or
35 pay card account balance at any time without a fee.

1 (d) Protections from unauthorized use in accordance with
2 federal and state law relating to electronic fund transfers.

3 ~~b.~~ f. If the employer fails to pay an employee's wages on
4 or by the regular payday in accordance with this subsection,
5 the employer is liable for the amount of any overdraft charge
6 if the overdraft is created on the employee's account because
7 of the employer's failure to pay the wages on or by the regular
8 payday. The overdraft charges may be the basis for a claim
9 under section 91A.10 and for damages under section 91A.8.

10

EXPLANATION

11 The inclusion of this explanation does not constitute agreement with
12 the explanation's substance by the members of the general assembly.

13 This bill permits the voluntary receipt by employees
14 of payment of wages by debit card or pay card under Code
15 chapter 91A, the Iowa wage payment collection law, if certain
16 requirements are met.

17 An employer may offer payment of wages by debit card or pay
18 card under the bill only if the employer complies with certain
19 requirements.

20 The employer must provide the employee with a clear and
21 conspicuous written disclosure notifying the employee that
22 payment by debit card or pay card is voluntary and listing the
23 other method or methods of payment offered by the employer.
24 The employer must provide the employee written notice of
25 all possible charges for use of the debit card or pay card.
26 The employer must also provide the employee written notice
27 in advance of any change in the amount or frequency of such
28 charges. The employer must provide the employee written notice
29 of all possible fees that may be deducted from the employee's
30 debit card or pay card account by the employer or card issuer.
31 The employer must provide a written explanation to the employee
32 as to how the employee may obtain, at no cost, the employee's
33 net wages, check the account balance, and request to receive
34 paper or electronic transaction histories. An employer is
35 prohibited from using a debit card or pay card that charges

1 certain fees. An employer is prohibited from offering payment
2 of wages by a debit card or pay card linked to any form of
3 credit.

4 An employer must comply with certain requirements if an
5 employee elects to have wages due paid by debit card or pay
6 card pursuant to the bill.

7 The employer must obtain the employee's written consent to
8 payment by debit card or pay card. The employer must obtain
9 such consent without coercion or the imposition of fear of
10 discharge or reprisal. The employer must retain copies of the
11 employee's written consent, the notice of charges, and the
12 notice of fees for a period of not less than two years. The
13 employer must substitute another payment method in accordance
14 with Code section 91A.3 no later than two pay periods after
15 receiving a request for termination of payment by debit card
16 or pay card from an employee.

17 An employer may offer payment of wages by debit card or pay
18 card under the bill only if the debit card or pay card includes
19 certain provisions for the employee.

20 The employee must be provided at least one method of
21 withdrawing the employee's full net wages from the card at
22 least once per pay period, but not less than twice per month,
23 at no cost to the employee, at a location readily available
24 to the employee. The employee must be provided upon request
25 one transaction history each month that includes all deposits,
26 withdrawals, deductions, or charges by any entity from or to
27 the employee's debit card or pay card account at no cost to the
28 employee. The employee must be provided unlimited telephone
29 access to obtain the debit card or pay card account balance at
30 any time without a fee. The employee must be provided with
31 protections from unauthorized use in accordance with federal
32 and state law relating to electronic fund transfers.

33 Under Code chapter 91A, unpaid wages or expenses, along with
34 liquidated damages, court costs, and attorney fees, may be
35 recovered by the employee or the labor commissioner by civil

S.F. _____ H.F. _____

1 action. An employer who violates Code chapter 91A is also
2 subject to a civil penalty of not more than \$500 per pay period
3 for each violation.