



New Economy Project

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MEMORANDUM IN OPPOSITION

June 20, 2013

BILL NUMBER: A.6419B (Morelle, Stirpe, Hevesi, Zebrowski, Mosley, Skoufis) same as S.0492B (Gallivan)

TITLE OF BILL: An act to amend the labor law, in relation to clarifying methods for the payment of wages and authorizing the payment of wages by use of payroll cards

STATEMENT OF OPPOSITION: New Economy Project (formerly NEDAP) strongly opposes the proposed bill, which fails to protect workers from abuses that are rampant in the payroll card industry. While the bill imposes some minimal requirements for payroll card programs, it fails to address the high and hidden fees typically incurred by workers and other abusive practices that our organizations have identified in existing payroll card programs in New York City and State. We urge the NYS Assembly and Senate to reject this harmful bill and to instead enact strong, meaningful protections for workers whose vital wages are loaded onto payroll cards.

New Economy Project is an economic justice advocacy center based in New York City. We have convened a working group of community, consumer, and labor groups to study payroll cards and their impact on low wage workers in New York City and State. Our organizations work with thousands of low wage New Yorkers, many of whom are already being paid through payroll cards. Our comments are based on card agreements and fee schedules that we have studied, worker testimonials, and research conducted with allies in New York and nationally.

Large retail and restaurant chains, among other employers, are aggressively shifting workers to payroll cards, in some cases requiring even employees with checking accounts to receive these cards. Payroll cards are lucrative for employers and banks. Employers may receive compensation per employee enrolled in paycard programs, in addition to cutting costs associated with paper checks.¹ Payroll card companies and banks generate revenue from a laundry list of fees charged to workers, as well as “float” on funds loaded onto payroll cards, for example. Limits on debit card “swipe” fees established by the Dodd-Frank financial reform law do not apply to prepaid debit cards – another incentive for banks to enter this market.

However, workers who receive payroll cards often pay high and hidden fees to access their wages, speak with a customer service representative, receive paper statements, or conduct other basic transactions. Many are never informed about the terms of the card or how to

¹ See, e.g., NYC Office of Collective Bargaining decision regarding NYCHA paycard program, in which NYCHA received a “revenue share” of \$1 per employee per month. <http://www.ocb-nyc.org/pdf/6%20OCB2d%203%20%28BCB%202013%29.pdf>

access their wages at no cost, or are automatically enrolled by their employers in payroll card programs, among other problems.

Proponents of payroll cards claim that the cards provide convenience and savings to workers. However, advocates across the country have found that high payroll card fees – which can easily exceed check cashing fees – and other problems experienced by workers far outweigh the potential benefits of many existing payroll card programs.

A.6419B/S.0492B fails to address the full scope of problems associated with payroll card programs, and would leave workers exposed to an array of abusive practices by both employers and payroll card issuers. Specific concerns with the bill include, for example:

- **Employers would be permitted to cease issuing paper checks.** NYS labor law should continue to provide employees the option to receive wages by paper check, as well as direct deposit – particularly given that payroll cards can be more costly than using check cashers. Workers must continue to have the ability to choose the method of receiving their wages that is most convenient to them
- **Excessive and multiple fees are not addressed.** Employers should be prohibited from enrolling employees in payroll card programs that charge excessive or hidden fees. Prohibited fees should include: application, initiation, maintenance, point of sale, overdraft, declined transaction, inactivity, and customer service fees; fees to receive paper statements; and fees to close the account.
- **One free withdrawal per pay period is insufficient.** Employees that choose payroll cards should be permitted at least two free withdrawals per pay period, including at out-of-network ATMs, as well as unlimited free withdrawals at a network of ATMs in convenient proximity to their workplace or residence.² And because rent and other payments often must be made by check, cardholders should be permitted to write at least two checks per period at no cost.

We urge the NYS legislature to reject A.6419B/S.0492B, and to enact pro-worker, pro-consumer legislation on payroll cards that provides core protections to working New Yorkers.

Employers that stand to reap huge savings from enrolling employees in payroll card programs must not be permitted to do so at the expense of their workers' financial security. Too many payroll card programs simply shift costs from large employers to their typically low-wage workers. By enacting strong protections for workers who receive payroll cards, and preserving workers' choice of payment methods, NYS will ensure that New Yorkers are not unfairly deprived of their hard-earned wages.

We would be eager to speak with you in greater detail regarding our concerns and recommendations. Thank you for your consideration of our comments.

² This is consistent with NYS Department of Labor's opinion letters to employers on payroll cards. See, e.g.: <https://www.labor.ny.gov/legal/counsel/pdf/Direct%20Deposit%20of%20Wages/Payroll%20cards%20Letter%2010-29-2009.pdf> <http://www.labor.ny.gov/legal/counsel/pdf/Direct%20Deposit%20of%20Wages/Debit%20Cards%20-%20%20RO-10-0018.pdf>