

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 4368

BY DELEGATES WESTFALL, FRICH AND LANE

[Passed March 7, 2018; in effect ninety days from passage.]

1 AN ACT to amend and reenact §21-5-3 of the Code of West Virginia, 1931, as amended, relating
2 to voluntary assignments of wages by state employees who have been overpaid; and
3 providing that state employees may voluntarily authorize an assignment or order of future
4 wages to repay an overpayment, not to exceed a certain amount.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. WAGE PAYMENT AND COLLECTION.

§21-5-3. Payment of wages by employers other than railroads; assignments of wages.

1 (a) Every person, firm or corporation doing business in this state, except railroad
2 companies as provided in section one of this article, shall settle with its employees at least twice
3 every month and with no more than 19 days between settlements, unless otherwise provided by
4 special agreement, and pay them the wages due, less authorized deductions and authorized
5 wage assignments, for their work or services.

6 (b) Payment required in subsection (a) of this section shall be made:

7 (1) In lawful money of the United States;

8 (2) By cash order as described and required in §21-5-4 of this code;

9 (3) By deposit or electronic transfer of immediately available funds into an employee's
10 payroll card account in a federally insured depository institution. The term "payroll card account"
11 means an account in a federally insured depository institution that is directly or indirectly
12 established through an employer and to which electronic fund transfers of the employee's wages,
13 salary, commissions or other compensation are made on a recurring basis, whether the account
14 is operated or managed by the employer, a third person payroll processor, a depository institution
15 or another person. "Payroll card" means a card, code or combination thereof or other means of
16 access to an employee's payroll card account, by which the employee may initiate electronic fund
17 transfers or use a payroll card to make purchases or payments. Payment of employee
18 compensation by means of a payroll card must be agreed upon in writing by both the person, firm
19 or corporation paying the compensation and the person being compensated; or

20 (4) By any method of depositing immediately available funds in an employee's demand or
21 time account in a bank, credit union or savings and loan institution that may be agreed upon in
22 writing between the employee and such person, firm or corporation, which agreement shall
23 specifically identify the employee, the financial institution, the type of account and the account
24 number: *Provided*, That nothing herein contained shall be construed in a manner to require any
25 person, firm or corporation to pay employees by depositing funds in a financial institution.

26 (c) If, at any time of payment, any employee is absent from his or her regular place of labor
27 and does not receive his or her wages through a duly authorized representative, he or she is
28 entitled to payment at any time thereafter upon demand upon the proper paymaster at the place
29 where his or her wages are usually paid and where the next pay is due.

30 (d) Nothing herein contained may affect the right of an employee to assign part of his or
31 her claim against his or her employer except as in subsection (e) of this section.

32 (e) No assignment of or order for future wages may be valid for a period exceeding one
33 year from the date of the assignment or order. An assignment or order shall be acknowledged by
34 the party making the same before a notary public or other officer authorized to take
35 acknowledgments, and any order or assignment shall specify thereon the total amount due and
36 collectible by virtue of the same and, unless otherwise provided for in subsection (f) of this section,
37 three-fourths of the periodical earnings or wages of the assignor are all times exempt from such
38 assignment or order and no assignment or order is valid which does not so state upon its face:
39 *Provided*, That no such order or assignment is valid unless the written acceptance of the employer
40 of the assignor to the making thereof is endorsed thereon: *Provided, however*, That nothing herein
41 contained may be construed as affecting the right of employer and employees to agree between
42 themselves as to deductions to be made from the payroll of employees.

43 (f) If an employee of the state has been overpaid wages, including incremental salary
44 increases pursuant to §5-5-2 of this code, an employee may voluntarily authorize a written
45 assignment or order for future wages to the state to repay the overpayment in an amount not to
46 exceed three-fourths of his or her periodical earnings or wages.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

The within this the.....
day of, 2018.

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Governor