Committee Substitute
for
House Bill 4368

By Delegates Westfall, Frich and Lane

[Passed March 7, 2018; in effect ninety days from passage.]
WEST VIRGINIA LEGISLATURE
2018 REGULAR SESSION

ENROLLED

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for
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BY DELEGATES WESTFALL, FRICH AND LANE

[Passed March 7, 2018; in effect ninety days from passage.]
AN ACT to amend and reenact §21-5-3 of the Code of West Virginia, 1931, as amended, relating

 to voluntary assignments of wages by state employees who have been overpaid; and

 providing that state employees may voluntarily authorize an assignment or order of future

 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.

(a) Every person, firm or corporation doing business in this state, except railroad

 companies as provided in section one of this article, shall settle with its employees at least twice

 every month and with no more than 19 days between settlements, unless otherwise provided by

 special agreement, and pay them the wages due, less authorized deductions and authorized

 wage assignments, for their work or services.

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

(1) In lawful money of the United States;

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

(3) By deposit or electronic transfer of immediately available funds into an employee's

 payroll card account in a federally insured depository institution. The term “payroll card account”

 means an account in a federally insured depository institution that is directly or indirectly

 established through an employer and to which electronic fund transfers of the employee’s wages,

 salary, commissions or other compensation are made on a recurring basis, whether the account

 is operated or managed by the employer, a third person payroll processor, a depository institution

 or another person. “Payroll card” means a card, code or combination thereof or other means of

 access to an employee’s payroll card account, by which the employee may initiate electronic fund

 transfers or use a payroll card to make purchases or payments. Payment of employee

 compensation by means of a payroll card must be agreed upon in writing by both the person, form

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

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

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

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

(f) If an employee of the state has been overpaid wages, including incremental salary
increases pursuant to §5-5-2 of this code, an employee may voluntarily authorize a written
assignment or order for future wages to the state to repay the overpayment in an amount not to
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.

Chairman, House Committee

Member

Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within act approved this the 22nd day of March, 2018.

Governor
PRESENTED TO THE GOVERNOR

Time  3:47 pm