

TALX Compliance Update

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Virginia Governor Tim Kaine has signed into law a bill allowing employers to mandate payroll cards for new hires starting 2010.

The bill, SB 1264, says an employer “. . . is permitted to pay wages or salaries by credit to a prepaid debit card or card account, even though such employee has not affirmatively consented thereto, if the employee fails to designate an account at a financial institution or consent to a prepaid debit card or card account....”

The new law allows employers to mandate payroll cards for employees hired after January 1, 2010. The payroll card must allow one free withdrawal per pay period for any amount.

Currently in Virginia, payment via paycard requires the consent of the employee. The new law opens the door for a more “electronic pay friendly” atmosphere in Virginia.

While several states allow payment by payroll card or may allow mandating as an extension of direct deposit law, Virginia joins Kansas as the only two states that expressly allow mandating payroll cards.

For a copy of Virginia SB 1264, please send an e-mail to compliance.bulletin@talx.com with “SB 1264” in the subject line.

EEOC Found in Violation of Federal Labor Law

The Equal Employment Opportunity Commission, responsible for ensuring that the nation's workers are treated fairly, has itself violated the Fair Labor Standards Act on a nationwide basis with its own employees, an arbitrator has ruled.

"The case before me . . . demonstrates action that went beyond mere negligence," arbitrator Steven M. Wolf wrote.

The agency's practice of requiring employees to accept compensatory time off rather than overtime pay amounted to "forced volunteering" and was a knowing violation of the law, according to the ruling.

Avoiding overtime pay is attractive to employers experiencing revenue declines. However, the arbitrator's ruling makes the practice risky unless employees are not under pressure to choose the time off over the overtime pay.

State and federal laws and regulations regarding overtime are likely to garner more attention in the short term, as employers are asked to do more with less.

As for the EEOC, this dispute comes at a time when the agency is handling what it terms an "unprecedented" level of discrimination charges. The EEOC received more than 95,400 charges of job bias in the private sector in fiscal 2008, up 15.2 percent from 2007 and 26 percent from 2006.

To learn more about paperless pay solutions that integrate with a payroll card, please send an e-mail to moreinfo@talx.com with "paperless pay with paycards" in the subject line. To learn about efficient time reporting solutions, please send an e-mail to moreinfo@talx.com with "time reporting" in the subject line.

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