

SUBSTITUTE FOR
HOUSE BILL NO. 5085

A bill to amend 1978 PA 390, entitled

"An act to regulate the time and manner of payment of wages and fringe benefits to employees; to prescribe rights and responsibilities of employers and employees, and the powers and duties of the department of labor; to require keeping of records; to provide for settlement of disputes regarding wages and fringe benefits; to prohibit certain practices by employers; to prescribe penalties and remedies; and to repeal certain acts and parts of acts,"

by amending section 7 (MCL 408.477), as amended by 1995 PA 278.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7. (1) Except for those deductions required or expressly
2 permitted by law or by a collective bargaining agreement, an
3 employer shall not deduct from the wages of an employee, directly
4 or indirectly, any amount including an employee contribution to a
5 separate segregated fund established by a corporation or labor
6 organization under section 55 of the Michigan campaign finance act,
7 ~~Act No. 388 of the Public Acts of 1976, being section 169.255 of~~

House Bill No. 5085 as amended February 7, 2012

1 ~~the Michigan Compiled Laws, 1976 PA 388, MCL 169.255~~, without the
2 full, free, and written consent of the employee, obtained without
3 intimidation or fear of discharge for refusal to permit the
4 deduction. **HOWEVER, AN EMPLOYER THAT IS A PUBLIC BODY, AS DEFINED**
5 **IN SECTION 11 OF THE MICHIGAN CAMPAIGN FINANCE ACT, 1976 PA 388,**
6 **MCL 169.211, SHALL NOT DEDUCT, DIRECTLY OR INDIRECTLY, ANY AMOUNT**
7 **FROM AN EMPLOYEE'S WAGES FOR A CONTRIBUTION TO A SEPARATE**
8 **SEGREGATED FUND ESTABLISHED UNDER SECTION 55 OF THE MICHIGAN**
9 **CAMPAIGN FINANCE ACT, 1976 PA 388, MCL 169.255, OR <<A CONTRIBUTION**
10 **OR ANY PAYMENT>> TO ANY COMMITTEE**
11 **ESTABLISHED UNDER THE FEDERAL ELECTION CAMPAIGN ACT OF 1971, PUBLIC**
12 **LAW 92-225, 2 USC 431 TO 455.**

12 (2) Except as provided in this subsection and subsection (4),
13 a deduction for the benefit of the employer requires written
14 consent from the employee for each wage payment subject to the
15 deduction, and the cumulative amount of the deductions shall not
16 reduce the gross wages paid to a rate less than minimum rate as
17 defined in the minimum wage law of 1964, ~~Act No. 154 of the Public~~
18 ~~Acts of 1964, being sections 408.381 to 408.398 of the Michigan~~
19 ~~Compiled Laws. 1964 PA 154, MCL 408.381 TO 408.398.~~ A nonprofit
20 organization shall obtain a written consent from an employee for
21 deductions to that nonprofit organization that qualify as
22 charitable contributions under federal law. However, this
23 subsection does not require the nonprofit organization to obtain
24 from an employee a separate written consent for each subsequent
25 paycheck from which deductions that qualify as charitable
26 contributions that benefit the employer are made. An employee at
27 any time may rescind in writing his or her authorization to have

1 charitable contributions deducted from his or her paycheck. As used
2 in this subsection, "nonprofit organization" means an organization
3 that is exempt from taxation under section 501(c)(3) of the
4 internal revenue code, **26 USC 501(C)(3)**.

5 (3) Each deduction from the wages of an employee shall be
6 substantiated in the records of the employer and shall be
7 identified as pertaining to an individual employee. Prorating of
8 deductions between 2 or more employees is not permitted.

9 (4) Within 6 months after making an overpayment of wages or
10 fringe benefits that are paid directly to an employee, an employer
11 may deduct the overpayment from the employee's regularly scheduled
12 wage payment without the written consent of the employee if all of
13 the following conditions are met:

14 (a) The overpayment resulted from a mathematical
15 miscalculation, typographical error, clerical error, or misprint in
16 the processing of the employee's regularly scheduled wages or
17 fringe benefits.

18 (b) The miscalculation, error, or misprint described in
19 subdivision (a) was made by the employer, the employee, or a
20 representative of the employer or employee.

21 (c) The employer provides the employee with a written
22 explanation of the deduction at least 1 pay period before the wage
23 payment affected by the deduction is made.

24 (d) The deduction is not greater than 15% of the gross wages
25 earned in the pay period in which the deduction is made.

26 (e) The deduction is made after the employer has made all
27 deductions expressly permitted or required by law or a collective

1 bargaining agreement, and after any employee-authorized deduction.

2 (f) The deduction does not reduce the regularly scheduled
3 gross wages otherwise due the employee to a rate that is less than
4 the greater of either of the following:

5 (i) The minimum rate as prescribed by subsection (2).

6 (ii) The minimum rate as prescribed by the fair labor standards
7 act of 1938, chapter 676, 52 Stat. 1060, 29 ~~U.S.C.~~ **USC** 201 to 216
8 and 217 to 219.

9 (5) An employee who believes his or her employer has violated
10 subsection (4) may file a complaint with the department within 12
11 months after the date of the alleged violation.

12 (6) As used in this section, "employer" means an individual,
13 sole proprietorship, partnership, association, or corporation,
14 public or private, this state or an agency of this state, a city,
15 county, village, township, school district, or intermediate school
16 district, an institution of higher education, or an individual
17 acting directly or indirectly in the interest of an employer who
18 employs 1 or more individuals.