

HOUSE BILL NO. 4405

April 12, 2023, Introduced by Reps. Churches, Farhat, Breen, Hood, Brabec, Morse, Price, Weiss, Brenda Carter, Tsernoglou, Hope, Andrews, Haadsma and Scott and referred to the Committee on Labor.

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 2015 PA 15.

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 1976 PA 388, MCL 169.255, without the full, free, and written
 8 consent of the employee, obtained without intimidation or fear of
 9 discharge for refusal to permit the deduction. However, an employer
 10 that is a public body, as defined in section 11 of the Michigan
 11 campaign finance act, 1976 PA 388, MCL 169.211, shall not deduct,
 12 directly or indirectly, any amount from an employee's wages for a
 13 contribution to a separate segregated fund established under
 14 section 55 of the Michigan campaign finance act, 1976 PA 388, MCL
 15 169.255, or a contribution or any payment to any committee
 16 established under the federal election campaign act of 1971, ~~Public~~
 17 ~~Law 92-225, 2 USC 431 to 455.~~ **52 USC 30101 to 30146.**

18 (2) Except as provided in this subsection and subsections (4)
 19 and (5), a deduction for the benefit of the employer requires
 20 written consent from the employee for each wage payment subject to
 21 the deduction, and the cumulative amount of the deductions ~~shall~~
 22 **must** not reduce the gross wages paid to a rate less than the
 23 minimum rate as prescribed in the ~~workforce opportunity wage act,~~
 24 ~~2014 PA 138, MCL 408.411 to 408.424.~~ **improved workforce opportunity**
 25 **wage act, 2018 PA 337, MCL 408.931 to 408.945.** A nonprofit
 26 organization shall obtain a written consent from an employee for
 27 deductions to that nonprofit organization that qualify as
 28 charitable contributions under federal law. However, this
 29 subsection does not require the nonprofit organization to obtain

1 from an employee a separate written consent for each subsequent
2 paycheck from which deductions that qualify as charitable
3 contributions that benefit the employer are made. An employee at
4 any time may rescind in writing ~~his or her~~ **the employee's**
5 authorization to have charitable contributions deducted from ~~his or~~
6 ~~her~~ **the employee's** paycheck. As used in this subsection, "nonprofit
7 organization" means an organization that is exempt from taxation
8 under section 501(c)(3) of the internal revenue code **of 1986**, 26
9 USC 501(c)(3).

10 (3) Each deduction from the wages of an employee ~~shall~~ **must** be
11 substantiated in the records of the employer and ~~shall~~ **must** be
12 identified as pertaining to an individual employee. Prorating of
13 deductions between 2 or more employees is not permitted.

14 (4) ~~Within~~ **Not later than** 6 months after making an overpayment
15 of wages or fringe benefits that are paid directly to an employee,
16 an employer may deduct the overpayment from the employee's
17 regularly scheduled wage payment without the written consent of the
18 employee if all of the following conditions are met:

19 (a) The overpayment resulted from a mathematical
20 miscalculation, typographical error, clerical error, or misprint in
21 the processing of the employee's regularly scheduled wages or
22 fringe benefits.

23 (b) The miscalculation, error, or misprint described in
24 subdivision (a) was made by the employer, the employee, or a
25 representative of the employer or employee.

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

29 (d) The deduction is not greater than 15% of the gross wages

1 earned in the pay period in which the deduction is made.

2 (e) The deduction is made after the employer has made all
3 deductions expressly permitted or required by law or a collective
4 bargaining agreement, and after any employee-authorized deduction.

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

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

9 (ii) The minimum rate as prescribed by the fair labor standards
10 act of 1938, 29 USC 201 to 219.

11 (5) If an employer pays any amount of the employee's debt
12 under a default judgment entered under section 4012(9) or (10) of
13 the revised judicature act of 1961, 1961 PA 236, MCL 600.4012, the
14 employer may deduct that amount from the employee's regularly
15 scheduled wage payment without the written consent of the employee
16 if all of the following conditions are met:

17 (a) The employer provides the employee with a written
18 explanation of the deduction at least 1 pay period **or 10 business**
19 **days, whichever is greater**, before the wage payment affected by the
20 deduction is made.

21 (b) The deduction is not greater than 15% of the gross wages
22 earned in the pay period in which the deduction is made.

23 (c) The deduction is made after the employer has made all
24 deductions expressly permitted or required by law or a collective
25 bargaining agreement, and after any employee-authorized deduction.

26 (d) The deduction does not reduce the regularly scheduled
27 gross wages otherwise due the employee to a rate that is less than
28 the greater of either of the following:

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

1 (ii) The minimum rate as prescribed by the fair labor standards
2 act of 1938, 29 USC 201 to 219.

3 (6) An employee who believes ~~his or her~~ **the employee's**
4 employer has violated subsection (4) or (5) may file a complaint
5 with the department ~~within~~ **not later than** 12 months after the date
6 of the alleged violation.

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

14 Enacting section 1. This amendatory act takes effect 90 days
15 after the date it is enacted into law.