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NONPROFIT PAYROLL DEDUCT'S.

Senate Bill 38 as passed by the Senate
First Analysis (6-17-93)

Sponsor: Sen. Vern Ehlers
Senate Committee: Labor
House Committee: Labor

THE APPARENT PROBLEM:

Since 1978, state law has required employers to obtain an employee's full, free consent in writing for any paycheck deduction other than a reduction required by law, such as federal, state, local or social security tax deductions. Last year, however, the Michigan Court of Appeals affirmed a lower court ruling that said that this provision requires a separate written consent by an employee for each paycheck from which a deduction is made "for the benefit of the employer." Apparently, a number of nonprofit organizations, including colleges and universities, provide employees the opportunity to have a portion of each paycheck deducted as a charitable contribution to the organization, but first obtain written consent from each employee wishing to contribute, usually at the beginning of a calendar year. Even though the court of appeals ruling applied to a narrow situation (in which the employer, without the employee's consent, withheld wages for certain accidents that were determined to be the employee's fault and that resulted in damage to company property), some people are concerned that the interpretation of this provision by the court could jeopardize the ability of a nonprofit organization to obtain a charitable contribution from an employee via payroll deduction unless written consent is obtained for each paycheck deduction. Because having to do this would be time-consuming and costly for them, legislation has been requested that specifically would exempt a nonprofit organization from this requirement as it relates to payroll deductions for charitable contributions made to it.

THE CONTENT OF THE BILL:

The bill would amend Public Act 390 of 1978, which regulates the payment of wages and fringe benefits to employees, to require a nonprofit organization to obtain a written consent from an employee for deductions that qualified as charitable contributions under federal law to that nonprofit organization. A

nonprofit organization, however, would not have to obtain from an employee a separate written consent for each subsequent paycheck from which such deductions were made. An employee at any time could rescind in writing his or her authorization to have charitable contributions deducted from his or her paycheck. (Currently, the act requires that a deduction for the benefit of an employer have the written consent of the employee for each wage payment subject to the deduction.)

Under the bill, "nonprofit organization" would mean an organization that was exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

MCL 408.477

FISCAL IMPLICATIONS:

Fiscal information is not available.

ARGUMENTS:

For:

Ever since the Michigan Court of Appeals upheld the opinion of a lower court last year regarding the obligation of an employer to obtain written consent "for each paycheck" for payroll deductions made for the employer's benefit, some nonprofit organizations are nervous about whether the court's interpretation of this provision in the act applies to the way they deduct from their employee's paychecks for charitable contributions to them. Apparently, according to a spokesman with the Department of Labor's Bureau of Safety and Regulation, nonprofits currently may deduct amounts for charitable contributions from each paycheck of an employee without having to get written consent each time, as long as written consent was obtained previously. (A similar exemption applies to both public and private employers who deduct from each paycheck amounts

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for charitable contributions, provided written consent has been obtained--the difference, of course, is that these deductions are not "for the benefit of the employer.") The bill simply would clarify that a nonprofit would not have to get written permission each paycheck for charitable contributions made by one of its employees to it via payroll deduction, as long as written permission for the deduction was obtained previously. Without knowing for sure whether this provision currently applies to them, nonprofits fear they could be required to obtain written consent for payroll deductions made each paycheck for charitable contributions to the nonprofit, which would be administratively burdensome and somewhat costly. A number of colleges and universities apparently use regular payroll deduction as a means for those employees who are interested to donate to the schools.

POSITIONS:

Aquinas College, of Grand Rapids, supports the bill.
(6-16-93)