



S.B. 213

124th General Assembly
(As Introduced)

Sens. Amstutz, Jacobson, DiDonato, Mumper, White, Randy Gardner,
Spada, Harris

BILL SUMMARY

- Limits the currently permissible use of a county credit card for "minor" motor vehicle maintenance to a specified dollar amount.
- Authorizes boards of county commissioners to approve the use of financial transaction devices for any work-related purchases of less than \$1,000 that are not purchases permitted under the County Credit Card Law.
- Changes the current provision pertaining to the exemption of county expenditures from the certification of available funds requirement by removing the requirement for an annual authorizing resolution and by increasing the amount for which purchases may be authorized from \$750 or less to \$1,000 or less.

CONTENT AND OPERATION

Use of county credit cards

Existing law

Under current law, a credit card held by a board of county commissioners or other county appointing authority may be used by officers or employees of an appointing authority if the appointing authority has applied for and received authorization from the board of county commissioners (sec. 301.27(C)). The card may be used only to pay for work-related expenses for food, transportation, gasoline and oil, minor motor vehicle maintenance, emergency motor vehicle repair, telephones, lodging, Internet service providers, and specified purchases of a public children services agency (sec. 301.27(B)). The debt incurred must be paid

from moneys appropriated to the board or other appointing authority for these work-related purposes (sec. 301.27(D)).

Every officer or employee authorized to use a county credit card generally must submit to the board of county commissioners a monthly estimate of anticipated expenses or an estimate for a longer period of time that the board has authorized by resolution. The board may authorize an amount up to that estimated amount and then must certify that authorized amount, if any, to the county auditor and provide accompanying information so the auditor can determine the appropriate appropriation line item for the expenses. After the board receives certification from the county auditor that the approved sum of money is in the treasury or in the process of collection to the credit of the appropriate appropriation line item for which the credit card is approved for use, and is free from previous and then-outstanding obligations or certifications, it must authorize the officer or employee to incur debt for the authorized amount. (Sec. 301.27(E)(1).)

In lieu of the procedure set forth in the preceding paragraph for establishing a preauthorized spending limit, a board of county commissioners may authorize, by resolution, an officer or employee of an appointing authority to use a county credit card to pay for specific classes of the work-related expenses, or to use a specific credit card for those expenses. Use of any credit card under this alternative procedure is limited to the amount appropriated and encumbered in a specific appropriation line item for the permitted use or uses designated in the authorizing resolution, or, in the case of a resolution that authorizes use of a specific credit card, for each of the permitted uses, but only to the extent the moneys in those appropriations are not otherwise encumbered. (Sec. 301.27(E)(2).)

When a county credit card is used for more than a preauthorized amount, an appointing authority may request the board of county commissioners to authorize the excess expenditure "after the fact" if the county auditor certifies that the sum of money is in the treasury or in the process of collection to the credit of the appropriate appropriation line item for which the credit card was used, and is free from previous and then-outstanding obligations or certifications (sec. 301.27(F)(1)). If the alternative procedure is used for more than the amount appropriated, an appointing authority may request the board to issue a supplemental appropriation or make a transfer of funds to the proper line item account to cover the excess charge (sec. 301.27(F)(2)). If these procedures are not followed, specified liabilities apply for the overcharge, and the person liable is required to reimburse the county treasury within 30 days after the issuance of written notice or face a civil law suit to recover the overcharge; the person also

may face criminal prosecution for the unauthorized use (sec. 301.27(F)(1)(a) and (b), (2)(a) and (b), and (4) and (G)).

Changes made by the bill

The bill removes "minor motor vehicle maintenance" from the list of permissible work-related expenses for which a county credit card may be used and instead lists "motor vehicle maintenance expenses the costs of which do not exceed the amount estimated or appropriated and encumbered under" the provision for establishing a preauthorized spending limit or the provision providing for the alternative approval procedure for the use of a credit card (sec. 301.27(A)(3) and (B)(4)). The apparent effect of this language is to limit permissible use of a credit card for motor vehicle maintenance to no more than the approved amount. Thus, an "after the fact" approval or supplemental appropriation measure could not be used to authorize overcharges for motor vehicle maintenance. In effect, this maintains authority to use a credit card for "minor" motor vehicle maintenance but defines what "minor" is by prohibiting any expenditures beyond the approved amount. Any expenses for motor vehicle maintenance exceeding the approved amount (but not exceeding \$1,000) could be made under authority conferred by the bill for the use of financial transaction devices, including an additional creditcard--see below.

Authorization to use financial transaction devices

Authorization procedure and use

The bill authorizes a board of county commissioners to authorize, by resolution, the use of a county "financial transaction device" for any work-related purchase that is not an expense listed in the County Credit Card Law and that is less than \$1,000. This authority is conditioned upon the board also adopting a resolution to exempt these purchases from the existing requirement for certification of available funds (see next paragraph). (Sec. 301.29(B)(1).) The bill defines a "financial transaction device" as a credit card, charge card, or prepaid or stored value card (sec. 301.29(A)), but it does not define a "work-related purchase" other than to indicate that it is an expense other than one of those specified in the County Credit Card Law (sec. 301.29(B)(1)). As under that Law, the debt incurred as a result of the use of a device must be paid from moneys appropriated to the appointing authority (sec. 301.29(D)).

The dollar limit for each individual work-related purchase for which a financial transaction device is used must be the same as the amount *exempted* from certification in the resolution adopted by the board of county commissioners to exempt these purchases from the requirement for certification of available funds (sec. 301.29(B)(1)). The certification of available funds is intended to ensure that

public money is not spent or obligated unless an appropriation has been properly made and there are sufficient funds to cover the expenditure or obligation. In addition, it serves to prevent a political subdivision from committing the same money to multiple, competing obligations. Thus, most contracts or payment orders must be accompanied by a certificate issued by the fiscal officer certifying that the money to be spent has been properly appropriated, is either in the appropriate fund or in the process of being collected, and has not already been obligated for some other purpose. Under the bill, in order to use a financial transaction device, the board must adopt a resolution identifying the specific amount authorized to be spent (it must be less than \$1,000) without the accompanying certificate of available funds (sec. 301.29(B)(1)). The bill makes accompanying changes to the certification of available funds provision in existing law (see "*Changes to certification of available funds provision*," below).

The bill requires a person who uses a financial transaction device to prepare and file with the county auditor, within three business days after using the device, a written document specifying the purpose and amount of the expenditure, the date of the purchase, the name of the vendor, and any additional information the Auditor of State may prescribe for the exempted purchases (sec. 301.29(B)(1)). These requirements also apply, under existing law, when a purchase is made without the certificate of available funds in a county that has adopted a resolution to authorize such purchases (sec. 5705.41(D)(2)).

A county appointing authority other than a public children services agency may apply to the board of county commissioners for authority to use a financial transaction device in the same manner as is currently required for authority to use a county credit card (sec. 301.29(B)(2)). The bill provides alternative procedures for obtaining approval of spending amounts that are generally the same as those set forth in the County Credit Card Law (sec. 301.29(E)(1) and (2)), as well as similar authority to obtain "after the fact" approval for purchases in excess of approved amounts (sec. 301.29(F)(1) and (2)). In addition, the bill specifies identical liabilities for specified persons for any amounts charged on a device beyond the originally approved amount, and the same criminal penalty for an unauthorized use (sec. 301.29(F)(1)(a) and (b), (2)(a) and (b), and (4) and (G)). The County Credit Card Law and the bill include identical provisions for notification to the board of loss, theft, or possible unauthorized use (sec. 301.29(F)(3)) and for notification by the board of liability to reimburse the county treasury for an overcharge (sec. 301.29(F)(4)).

Request for proposals to issuers of financial transaction devices

The bill requires a board of county commissioners to advertise a request for proposals from issuers of financial transaction devices for the issuance of the particular devices the board authorizes for use under the authority conferred by the

bill. The request for proposals must be advertised in a newspaper of general circulation within the county at least once a week for two consecutive weeks. The advertisement must specify the purpose of the request, the type of financial transaction device or devices sought, and the date by which proposals must be received. That date must not be less than ten days after the last day of the second week in which the request is advertised. The board must determine whether to contract with any one or more issuers that submit a timely proposal. Before entering into a contract, the board must adopt a resolution stating the contract's intent and guidelines for the use of each financial transaction device that will be covered by the contract. (Sec. 301.29(C).)

Competitive bidding requirements preserved

The bill provides that a financial transaction device cannot be used in any manner to circumvent the competitive bidding requirements of existing law (sec. 301.29(E)(3)).

Changes to certification of available funds provision

Under current law, a board of county commissioners annually may adopt a resolution exempting for the current fiscal year county purchases of \$750 or less from the requirement that a certificate be attached to any contract or order involving the expenditure of money. The bill increases to \$1,000 or less the amount for which purchases may be authorized to be made without the certificate of available funds. It also removes the requirement that an authorizing resolution be adopted annually for the current fiscal year, thereby authorizing a one-time resolution for an unlimited period of time. (Sec. 5705.41(D)(2).)

HISTORY

| ACTION | DATE | JOURNAL ENTRY |
|------------|----------|---------------|
| Introduced | 01-15-02 | p. 1307 |

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