



Sub. S.B. 82*

125th General Assembly

(As Reported by S. State and Local Government and Veterans Affairs)

**Sens. Amstutz, Randy Gardner, Jacobson, Mumper, Stivers, Harris, Spada,
DiDonato, Schuler, Hagan**

BILL SUMMARY

- Makes miscellaneous changes to the County Credit Card Law.
- Authorizes boards of county commissioners to approve the use of procurement cards for certain work-related expenses.
- 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 the 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

* *This analysis was prepared before the report of the Senate State and Local Government and Veterans Affairs Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

from moneys appropriated to the 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 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 any of 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)).

If a county officer or employee who is authorized to use a county credit card suspects the loss, theft, or possibility of unauthorized use of the card, the officer or employee must notify his or her appointing authority or the board of county commissioners immediately and in writing (sec. 301.27(F)(3)).

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 repair and maintenance expenses"; it also removes emergency motor vehicle repair expenses from the list (sec. 301.27(A)(3) and (B)(1)(d)).

Under the bill, if a county officer or employee submits a monthly estimate of anticipated work-related expenses under the law's preauthorized spending limit provisions for county credit cards, the officer or employee also must submit the specific appropriation line items from which those expenses are to be paid. After the board of county commissioners receives certification from the county auditor that the determined sum of money is in the treasury or in the process of collection to the credit of the specific appropriation line items for which the credit card's use is approved, and is free from previous and then outstanding obligations or certifications, the board must authorize the officer or employee to incur debt up to the authorized amount. (Sec. 301.27(E)(1).)

The bill excludes "procurement cards" from the definition of a county "credit card" and provides that no late or finance charges will be allowed as an allowable expense unless authorized by the board of county commissioners (sec. 301.27(A)(1) and (B)(2)). (See "Use of county procurement cards," below.) It also (1) substitutes throughout the County Credit Card Law references to "specific appropriation line items" for current law's "appropriations" or "proper line item accounts," (2) requires officer or employee written notices of suspected loss, theft, or possible unauthorized use of a credit card to be given additionally to the county auditor, and (3) requires the board of county commissioners to additionally notify the county auditor of necessary reimbursements to the county treasury due to overcharges (sec. 301.27(D), (E)(2), and (F)(2), (3), and (4)).

Use of county procurement cards

Authorization procedure and use

The bill authorizes a board of county commissioners to authorize, by resolution, the use of a county "procurement card" for work-related expenses. A "procurement card" is defined generally as a financial transaction device authorized by the bill's County Procurement Card Law, but the term excludes any



credit card authorized by the County Credit Card Law.¹ Similar to a county credit card, however, late or finance charges will not be allowed as allowable expenses with respect to a procurement card unless authorized by the board of county commissioners. (Sec. 301.29(A)(2) and (B).)

In any county that chooses to use procurement cards, the board of county commissioners must adopt a policy for the county's use of those cards by resolution and with the advice of the county auditor. The resolution must include provisions that limit the use to payment for one or more specific work-related or specific classes of work-related expenses, and that limit transactions to a specific number of transactions per day, month, quarter, or other specified period, by supplier or work-related expense. In addition, the resolution must limit a procurement card to daily and monthly spending limits. (Sec. 301.29(C)(1).)

The resolution also must contain a list of administrative controls that the board determines, after consulting with the county auditor, will be sufficient for use of a procurement card. Those administrative controls must include at least the following: (1) an aggregate amount that may be incurred through use of each card within a day, week, or month, (2) classes of permissible goods and services that may be purchased with a card, and (3) a procedure for the revocation of a card if it is misused. (Sec. 301.29(C)(1).)

Under the bill, a county appointing authority may apply to the board of county commissioners for authorization to have an officer or employee of the appointing authority use a procurement card held by that appointing authority. The authorization request must state whether the card is to be issued only in the name of the office of the appointing authority or whether it also must include the name of a specified officer or employee. (Sec. 301.29(D).)

The bill contains a procedure for obtaining approval of spending amounts that generally is similar to that set forth in the County Credit Card Law except that for procurement cards the monthly or other period estimate of work-related expenses need not be accompanied by the specific appropriation line items from which those expenses are to be made (sec. 301.29(F)(1)).

An alternative procedure is authorized for a board of county commissioners to adopt a resolution authorizing an officer or employee of an appointing authority to use a county procurement card to pay for specific classes of work-related expenses, or use a specific card for any work-related expenses, without submitting an estimate of those expenses as required for a preauthorized spending limit.

¹ A "financial transaction device" is a credit card, debit card, charge card, or prepaid or stored value card (sec. 301.28--not in, but referred to in, the bill).

Before adopting the resolution, the board must notify the county auditor. The resolution must specify whether the officer's or employee's exemption extends to the use of a specific procurement card, identified by its number, or to one or more specific work-related uses. The bill's procedures for a preauthorized spending limit must be followed before any procurement card issued for specific uses may be used to make purchases for uses other than those specific uses listed in the resolution or the use will be considered an unauthorized use. Use of a procurement card under this alternative procedure must be 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 procurement card, for any work-related expense, but only to the extent the moneys in those specific appropriation line items are not otherwise encumbered. (Sec. 301.29(F)(2).)

The bill provides similar authority to that in the County Credit Card Law for obtaining "after the fact" approval, supplemental appropriations, or transfers to specific appropriation line items when expenses incurred by use of a county procurement card are in excess of authorized or appropriated amounts. In addition, the bill specifies identical liabilities for specified persons for any amounts charged on a procurement card beyond the originally authorized or appropriated amount, and the same criminal penalty for an unauthorized use. (Sec. 301.29(G)(1) and (2) and (H).) The County Credit Card Law and the proposed County Procurement Card Law include similar provisions for notification to the county auditor and either the officer's or employee's appointing authority or the board of county commissioners of loss, theft, or possible unauthorized use of a card and for notification by the board of liability to reimburse the county treasury for an overcharge; the County Procurement Card Law also refers, however, to the unlawful use of a card in its provisions (sec. 301.29(G)(3) and (4)).

As under the County Credit Card Law, the debt incurred as a result of the use of a county procurement card must be paid from moneys appropriated to the specific appropriation line items of the appointing authority (sec. 301.29(E)).

Internal accounting controls

The bill requires the county auditor to develop internal accounting controls in consultation with the Auditor of State for the implementation of the proposed County Procurement Card Law (sec. 301.29(C)(2)).

Request for proposals to issuers of procurement cards

The bill requires a board of county commissioners to advertise a request for proposals from issuers of procurement cards. 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 procurement card or cards 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. (Sec. 301.29(C)(3).)

The bill allows a board to post the advertisement on the county website on the Internet. If it is so posted, the board may eliminate the otherwise required second newspaper publication if the first newspaper notice (1) is published at least two weeks before the date required for receipt of the proposals, (2) includes a statement that the notice is posted on the county website on the Internet, (3) provides the county Internet address, and (4) provides instruction for accessing the advertisement on the county website. (Sec. 301.29(C)(3).)

A board must determine, upon the advice of the county auditor and the county treasurer, 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 consistent with the bill's requirements and the internal accounting controls for county procurement cards. (Sec. 301.29(C)(3).)

Competitive bidding requirements preserved

The bill provides that a county procurement card cannot be used in any manner to circumvent the competitive bidding requirements of existing law (sec. 301.29(F)(3)).

Conforming change to the Criminal Code

Because existing law or the bill subjects a person to potential criminal prosecution for the offense of "misuse of credit cards" if there is an unauthorized use of a county credit card (existing law) or a county procurement card (added by the bill), the bill amends the definition of "credit card" in the Criminal Code's Theft Offenses Law to include county procurement cards authorized by the bill (sec. 2913.01(U) and related secs. 301.27(G), 301.29(H), and 2913.21).

Changes to Certification of Available Funds Law

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).)

Under current law, a person authorized to make a county purchase in a county that has adopted such a resolution must prepare and file with the county auditor, within three business days after incurring an obligation not requiring a certificate, 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. The bill allows for the notice to be sent within that three-business-day period or any other period of time the board of county commissioners specifies in the resolution and also allows it to be made by an electronically transferred document. And, the bill provides that the notice additionally must include the specific appropriation line items from which the expenditures are to be made. (Sec. 5705.41(D)(2).)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-06-03	p. 314
Reported, S. State & Local Gov't & Veterans Affairs	---	---

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