

STORAGE NAME: h1413a.grr
DATE: April 1, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
GOVERNMENTAL RULES AND REGULATIONS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 1413

RELATING TO: State Financial Matters

SPONSOR(S): Representative Reddick and others

STATUTE(S) AFFECTED: Section 215.322, F.S. and Section 282.20, F.S.

COMPANION BILL(S): SB 718 (s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) GOVERNMENTAL RULES AND REGULATIONS YEAS 6 NAYS 0
- (2) FINANCE & TAXATION
- (3) GENERAL GOVERNMENT APPROPRIATIONS
- (4)
- (5)

I. SUMMARY:

Current law provides that state agencies and the judicial branch may accept payment by credit card. The Treasurer is authorized to contract with one or more financial institutions to process credit card payments and deposit them into the State Treasury. In addition, the Department of Management Services Technology Resource Center currently offers hardware, software, operations, integration, networking, and consulting services to state agencies.

HB 1413 allows state agencies and the judicial branch to accept payment by debit card. Such acceptance must be approved by the Treasurer and recommended by the Governor's Office of Planning and Budgeting. The bill removes the current stipulation that alternative contracts must be "more financially advantageous", and provides that such contracts must simply be "more advantageous" to state agencies or the judiciary. HB 1413 expands the current Technology Resource Center information-processing support function to all authorized SUNCOM users. Additionally, new sections are created to permit the Department of Management Services to charge subscription fees for the use of its electronic information services. The department is also authorized to develop materials and products, to charge a fee for such products, and to sell copies of such materials to SUNCOM users. Further, the department is permitted to license, lease or otherwise give consent to a firm or corporation to produce such materials on a royalty basis. Any proceeds from such an arrangement shall be used to pay the cost of producing and distributing such materials.

Amendment #1 by Representative Martinez was a remove-everything amendment which included most of the above-mentioned provisions contained in the original bill and provided clarifying language, but did not substantially alter the intent. The amendment provides that any existing contract to accept charge cards or debit cards shall continue to be in effect; however, such a contract must conform to the provisions of this act prior to any extension or renewal occurring after the effective date of this act. The amendment states that fees collected by DMS for providing remote electronic access shall be in accordance with existing public records law. The amendment also abolishes the data processing policy board.

This act shall take effect upon becoming law.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Acceptance of Credit Cards

Section 215.322, F.S. (1995), authorizes state agencies and the judicial branch to accept credit cards in payment for goods and services, upon the Treasurer's approval and authorizes the Treasurer to adopt rules which govern the acceptance of credit cards. Pursuant to this section, only taxes, license fees, tuition and other statutorily prescribed revenues may be subject to a service fee or surcharge. Fla. Admin. Code Ch. 4C-4 establishes the procedures by which state agencies may contract with credit card service providers to accept payment by credit card and establishes the minimum public disclosure requirements when service fees or surcharges are charged on credit card transactions.

Furthermore, the Treasurer may contract with one or more financial institutions or credit card companies to process credit card collections for deposit into the State Treasury. Any state agency, or the judicial branch, which accepts payment by credit card must use one of these contractors, or get authorization from the Treasurer to use another contractor which is more financially advantageous to such agency or the judicial branch.

Technology Resource Center

Pursuant to s. 282.20, F.S. (1995), the Department of Management Services (DMS) Technology Resource Center shall serve as a full-service information-processing facility, offering hardware, software, operations, integration, networking, and consulting services to state agencies. In addition, this section provides for a data processing policy board to oversee the Center's operations. Membership on this board includes the Executive Director of the Information Resource Commission, the Director of DMS Division of Communications, and the Chair of the coordinating council of the Florida Fiscal Accounting Management Information System.

According to Department staff, DMS is currently assisting local governments through its Florida Communities Network initiative by hosting home pages on the Internet and providing related support services.

B. EFFECT OF PROPOSED CHANGES:

Acceptance of Debit Cards

HB 1413 authorizes the judicial branch and state agencies to accept payment by debit cards. The bill makes the acceptance of credit card or debit card payments conditional upon the recommendation of the Governor's Office of Planning and Budgeting, with the prior approval of the Treasurer. The Treasurer is authorized to adopt rules governing the establishment and acceptance of debit cards by state agencies or the judicial branch, similar to Fla. Admin. Code Ch. 4C-4 explained above.

The bill deletes the requirement that state agencies surcharge for statutorily prescribed revenues such as taxes, license fees, and tuition when receiving payment by credit card.

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According to DMS staff, certain major credit card companies have changed their policy, disallowing such surcharges.

Additionally, HB 1413 applies the current provisions governing the use of credit cards by state agencies and the judicial branch to the use of debit cards. The bill provides that the Comptroller may specify other manners of payment of services fees, in addition to being invoiced and paid by state warrant. According to the Comptroller's office, this provision allows for service fees to be deducted from the payment amount, eliminating paperwork and simplifying the process.

HB 1413 removes the current requirement that alternative contractors sought by a state agency must be "more financially advantageous" to that state agency than the existing contractors approved by the Treasurer. The bill provides that the alternative contractor must simply be "more advantageous" to that state agency. The use of such a contractor may result in increased agency costs. A state agency must still obtain authorization from the Treasurer to use an alternative contractor.

Technology Resource Center

Currently, the Technology Resource Center provides information-processing support to state agencies. HB 1413 expands this support function, making it available to "customers", defined as a state agency or other entity authorized to use the SUNCOM network. Such other entities include local governments, state community colleges, school districts, and certain non-profit corporations under contract with the state.

HB 1413 also provides for weighted voting for board members, to be determined by the percentage of the data processing center's prior year revenues paid by a board member's entity. Currently, board members are permitted only one vote per member. The bill also states that board approval is no longer required for technology resource purchases below \$15,000 nor is board approval required for new customers that are not large users.

New Sections

This bill creates s. 282.21, F.S., which permits DMS to charge subscription fees for the use of its electronic information services. At a minimum, these fees shall be sufficient to cover the costs of such services and shall be deposited in the trust fund of the program which made the electronic information available. Currently, section 287.042(1)(g), F.S., authorizes DMS Division of Purchasing to collect fees for the use of its electronic information services. This provision of HB 1413 would extend such authorization to the entire department.

In addition, s. 282.22, F.S., is created, authorizing DMS to develop materials and products, to charge a fee for such products, and to sell copies of such materials and products to any entity permitted to use the SUNCOM network. In those instances where it is not practicable or feasible for DMS to produce such materials, DMS is authorized (after review and approval from the Department of State) to license, lease, assign, sell or give written consent to any person or business to produce such materials on a royalty basis. DMS is directed to protect such materials against improper or unlawful use and shall collect any payments due for the manufacture or use of such materials by any other party. These proceeds shall be used to pay the costs of producing and distributing

such materials and products, and shall be deposited into the DMS Grants and Donations Trust Fund. This provision is similar to the authority given to the Department of Education with regard to the production of educational materials in s. 233.255, F.S. (1995).

DMS staff noted that the department has been approached by a major corporation about co-developing internet software which the State could use for free and the corporation would have the marketing rights to sell the product in other jurisdictions and pay DMS a royalty. The above-mentioned provision of this bill would permit DMS to enter into such an arrangement.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

HB 1413 authorizes the Treasurer to adopt rules to govern the establishment and acceptance of debit cards by state agencies and the judicial branch.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

This bill adds the Office of Planning and Budget to the credit and debit card approval process. In addition, DMS is authorized to develop materials and products for state and local governments.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

NA

(2) what is the cost of such responsibility at the new level/agency?

NA

(3) how is the new agency accountable to the people governed?

NA

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

The bill authorizes DMS to collect fees for the use of its electronic information services. Such fees may be imposed per transaction or as a fixed subscription for a specified period of time. These fees shall be sufficient to cover the cost of such services, including overhead costs.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Yes. The bill allows individuals to make payment by debit card to a state agency or the judicial branch.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

NA

(2) Who makes the decisions?

NA

(3) Are private alternatives permitted?

NA

(4) Are families required to participate in a program?

NA

(5) Are families penalized for not participating in a program?

NA

- b. Does the bill directly affect the legal rights and obligations between family members?

NA

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

NA

(2) service providers?

NA

(3) government employees/agencies?

NA

D. SECTION-BY-SECTION RESEARCH:

Please see Effect of Proposed Changes section above.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

DMS may experience a revenue increase resulting from the fees charged for use of the department's electronic information services. Such an increase is indeterminate. Additionally, DMS will be authorized to enter into arrangements with private sector entities on a royalty basis. DMS staff estimates that the department could receive approximately 3 percent or more of the proceeds of such an arrangement.

Additionally, state agencies who obtain the Treasurer's approval to use an alternative contractor in processing credit and debit cards may experience increased agency costs if the alternative contractor is more expensive than existing contractors.

2. Recurring Effects:

Indeterminate.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

Indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

This bill would allow DMS to license, assign, sell or give written consent to any person or business to develop materials or products on a royalty basis.

3. Effects on Competition, Private Enterprise and Employment Markets:

This bill is anticipated to have a positive effect on competition and private enterprise with regard to the development of software or other technological resources in conjunction with the department.

D. FISCAL COMMENTS:

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Governmental Rules & Regulations adopted one amendment to the original bill.

Amendment #1 by Representative Martinez removed everything after the enacting clause and inserted revised language. The amendment provided that state agencies and the judicial branch may accept payment by charge card and debit card. Such acceptance must be recommended by the Governor's Office of Planning and Budgeting and approved by the Treasurer. The Treasurer is also authorized to adopt rules governing the acceptance of debit cards.

The amendment authorizes the Treasurer to contract with other entities, in addition to financial institutions and credit card companies, for the processing of credit card, charge card, and debit card collections for deposit into the State Treasury. Such entities must be legally authorized to provide such a service. The amendment states that any statutorily required action for the acceptance of such cards must be done within 10 working days after receipt of the request for approval, or it will be deemed approved.

The amendment provides that any existing contract to accept charge cards or debit cards shall continue to be in effect; however, such a contract must conform to the provisions of this act prior to any extension or renewal occurring after the effective date of this act. The amendment also expands the current Technology Resource Center information-processing support function to all entities authorized to use the State SUNCOM network. In addition, any new customer other than a state agency which is expected to pay more than 5 percent of the previous year's revenues of the Technology Resource Center during the first year, must first receive approval from the Office of Planning and Budgeting in a manner similar to the budget amendment process in chapter 216, F.S.

The amendment allows DMS to collect fees for providing remote electronic access pursuant to the provisions contained in chapter 119, F.S. Furthermore, DMS is authorized to develop materials and products for SUNCOM users and may license, lease, assign, sell, or otherwise give written consent to a firm or corporation to produce such materials or products on a royalty basis. Any proceeds received from such an arrangement shall be used to pay the cost of producing and distributing such materials. Finally, the amendment repealed statutory provisions which created the data processing policy board.

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This amendment was not made into a committee substitute.

VII. SIGNATURES:

COMMITTEE ON GOVERNMENTAL RULES AND REGULATIONS:

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