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DATE: March 30, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
BANKING
ANALYSIS**

BILL #: HB 1783
RELATING TO: State University System
SPONSOR(S): Representative(s) Brutus
TIED BILL(S):

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

- (1) BANKING
 - (2) COLLEGES & UNIVERSITIES
 - (3) COUNCIL FOR LIFELONG LEARNING
 - (4)
 - (5)
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I. SUMMARY:

Current law permits the state universities to accept credit cards, charge cards, and debit cards as compensation for goods, services, tuition, and fees pursuant to s. 215.322, F.S. Provisions of that section require prior approval by the Treasurer for any state agency to accept such cards in payment for goods and services. Rules of the State Treasurer govern the acceptance of credit cards by state agencies. These rules require utilization of a standardized contract between a financial institution and the agency unless otherwise approved by the Treasurer. Convenience fees are permitted, unless prohibited by state law or card company regulations, but are not required.

This bill provides authority for state universities to accept credit cards, charge cards, and debit cards for the payment of tuition and fees without the imposition of a convenience fee for such card services. Universities are permitted to absorb the costs incurred in accepting such cards as a cost of doing business. Universities are permitted to use any source of nonappropriated funds to cover the costs of accepting such cards. Subject to approval of the State Treasurer, universities may negotiate contracts with financial institutions to use compensating balances to cover the costs of accepting such cards. Universities may accept card payments at any location where compensation is received for goods, services, tuition, or fees, whether the payor makes the payment in person or by electronic means.

The universities estimate that the system wide cost of accepting these cards will be below \$1 million. Universities would either use nonappropriated funds (such as auxiliary accounts, overhead accounts, or concession funds) to cover these costs or enter into agreements with financial institutions whereby a compensating balance could be placed on deposit with the institution to cover the costs associated with the acceptance of such cards.

SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

ACCEPTANCE OF CREDIT CARDS, CHARGE CARDS, AND DEBIT CARDS
BY STATE AGENCIES

Section 215.322, F.S., contains provisions relating to the acceptance of credit cards, charge cards, or debit cards by state agencies, units of local government, and the judicial branch. The intent of the Legislature is to encourage state agencies, the judicial branch, and units of local government to make their services more convenient to the public and to reduce the administrative costs of government by the acceptance of payments by credit cards, charge cards, and debit cards to the maximum extent practicable. A state agency may accept credit cards, charge cards, or debit cards in payment for goods and services upon prior approval of the Treasurer.

Section 215.322, F.S., requires the Treasurer to adopt rules governing the establishment and acceptance of credit cards, charge cards, or debit cards by state agencies. The rules must require utilization of a standardized contract (developed by the Treasurer) between the financial institution and the agency. A substitute agreement may be used if approved by the Treasurer. An agency must be permitted to impose a convenience fee upon the person making the payment. The convenience fee may not exceed the cost to the state of contracting for such card services.

Section 215.322, F.S., authorizes the Treasurer to establish contracts with one or more financial institutions for processing credit card, charge card, or debit card collections. Any state agency that accepts payment by credit card, charge card, or debit card must use one of these contractors unless the agency obtains authorization from the Treasurer to use another contractor that is more advantageous to the agency.

The Treasurer's rules governing the acceptance of credit cards, charge cards, and debit cards by state agencies are found in Chapter 4C-4, F.A.C. According to staff of the Joint Administrative Procedures Committee, the most recent rules relating to acceptance of these cards became effective January 27, 1999¹. The rules establish procedures for the following functions:

- (1) Providing a process for state agencies to request approval for credit card, charge card, and debit card acceptance.

¹ A revised set of rules has been proposed by the Treasurer, but are not expected to be in effect until the latter part of April.

The procedures for requesting approval to accept credit cards, charge cards, and debit cards are set forth in Rule 4C-4.0035, F.A.C.

Each request must include: the type of fees being collected; the locations where the card will be accepted; the method of acceptance; the projected annual amount of collections and the average transaction amount; the dollar amount of annual service fees to be paid and the source of fee payment, e.g., general revenue or specific trust fund. The justification should include the anticipated economic and other benefits that would accrue to the state, and include: goals and expectations; the impact of state revenues and expenditures; effect on the private sector; and a summary of expected improvement in labor and operational efficiencies, customer payment compliance, increase in collections, reduction in bad check losses, staffing considerations, current delays in processing payments, earlier receipt of funds, increase in sales, and any other information deemed appropriate by the proposer to explain the request.

The Treasurer must evaluate each request and take into consideration the processing costs, comparison to other payment methods, economic, and other benefits. The Treasurer has a 10-working day period to complete their respective reviews. Additional information may be requested if necessary. If the material submitted is incomplete or if additional information is necessary, the 10-day evaluation period may be suspended and the request will be placed in a pending status.

(2) Utilizing a standard contract, adopted by the Treasurer, between the service provider and the agency. (The Treasurer may approve a substitute agreement developed by an agency if the terms of the substitute agreement are acceptable.)

Rule 4C-4.004, F.A.C., requires each state agency to use the standard contract established by the Treasurer or obtain authorization from the Treasurer to use another contractor. If an alternative contractor is desired, the state agency must present justification to the Treasurer as to why the standard contract is not acceptable and receive approval from the Treasurer before seeking an alternative contractor. The requesting agency may complete the procurement process contingent upon the approval of the Treasurer to use an alternative service provider and terms of another agreement.

(3) Permitting an agency accepting payment by credit card to impose a convenience fee upon the person making the payment.

Rule 4C-4.005, F.A.C., prohibits state agencies from imposing a convenience fee if such a fee is prohibited by state law or card company regulations. The convenience fee must be related to convenience to the consumer such as eliminating a need to make a payment in person. The rule suggests that the convenience fee should be assigned to payment methods such as telephone, automatic response units, or other nonstandard payment processing methods. Similar transactions must be charged the same fee.

(4) Annual reporting requirements for state agencies accepting credit cards, charge cards, or debit cards.

State agencies with an established credit card, charge card, or debit card operation must file an annual report with the Treasurer containing the following information for each type of transaction related to the immediately preceding fiscal year: name of accepting agency and location; types of collections; total receipts by transaction type; number of transactions by transaction type; name of service provider; total annual service fees paid, including total amount of fees remitted to service provider and the source of the payment -- off set by sale of goods and services, an appropriation, compensating balance, or other; the service provider's schedule, including the discount rate or service fee; and the basis for calculation.

An earlier rule requiring the collection of a service fee when taxes, license fees, tuition, and other statutorily prescribed revenues were paid by use of credit cards (Rule 4-4.007, F.A.C.) was repealed effective January 27, 1999.

CREDIT CARD, CHARGE CARD, AND DEBIT CARD USE IN THE STATE UNIVERSITY SYSTEM

Section 240.289, F.S., permits state universities to enter into agreements with credit card companies and accept credit cards, charge cards, or debit cards as payment for goods, services, tuition, and fees. Such actions must be pursuant to the provisions of s. 215.322, F.S., (described in the preceding section) and in accordance with rules established by the Board of Regents.

Staff of the State University System report that three universities -- the University of Florida, the University of Central Florida and the University of West Florida have all received approval from the Treasurer's office to accept credit cards for all transactions. These institutions do not charge a convenience fee. Florida Atlantic University, and Florida State University -- accept credit cards in payment of tuition for remote transactions (such as phone, kiosk, and the Internet) and charge a convenience fee. Florida International University uses a third party payor who accepts credit cards for all tuition payment types and absorbs the card fee. The University of South Florida has received approval to accept credit cards for all services but will not begin implementing this program until the summer semester of 2001. The remaining three universities -- Florida A & M University, the University of North Florida, and Florida Gulf Coast University -- do not accept credit cards as payment for tuition and are looking into their options.

In the past, University staff reported problems associated with the approval process as provided for in the Treasurer's rules. However, revisions to Ch. 215, F.S., passed in 2000², authorized the consideration of intangible savings, such as convenience to students and/or parents or the increased ability to integrate business systems as a factor in the cost/benefit analysis. Consequently, Board staff reports that approval for use of credit cards is becoming more routine and that the cumbersome, paperwork intensive approval process is probably unnecessary.

Proponents of the bill assert that the bill's provisions are consistent with the practices currently being approved by the Treasurer and with pending changes in the State University System, the Board of Regents, and the Treasurer's Office, that the bill will also provide clear authority for universities to continue to make business decisions regarding the use of card payments and related fees.

C. EFFECT OF PROPOSED CHANGES:

This bill specifically authorizes state universities to accept credit cards, charge cards, and/or debit cards for the payment of tuition and fees without the imposition of a convenience fee for such card services. (As noted previously, the provisions of s. 215.322, F.S., do not require an agency to assess a convenience fee. The rules of the Treasurer relating to acceptance of credit cards permit, but do not require, a state agency to assess a convenience fee.) Universities are authorized to absorb the cost incurred by the university in accepting credit cards, charge cards, and debit cards as a cost of doing business. Universities are permitted to utilize any source of nonappropriated funds to cover the costs of acceptance of the cards. Subject to the approval of the State Treasurer,

² Section 215.322(3)(e), F.S., provides that the cost-benefit methodology must consider nonquantifiable benefits such as the convenience to individuals and businesses.

universities are also authorized to negotiate contracts with financial institutions whereby a compensating balance could be placed on deposit with the financial institution to cover the costs of acceptance of credit cards, charge cards, and debit cards. Finally, universities are authorized to accept credit cards, charge cards, and debit cards at any location where collections are transacted for the compensation of goods, services, and tuition and fees, either in person or by electronic means. An analysis prepared by the Treasurer's Office suggests that the bill has the effect of freeing the state universities from the approval process provided for in s. 215.322, F.S.

D. SECTION-BY-SECTION ANALYSIS:

This section need be completed only in the discretion of the Committee.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

See FISCAL COMMENTS

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The universities project that 25% of the students will utilize credit, charge, or debit cards for non-remote tuition payments. They believe that fees in the 1.5% - 2% range could be negotiated with the banks and indicate that the current state contract rate is 1.6%. Based on a student credit hour load of 12 hours per semester, this is about \$30 per student per year. The universities suggest that the savings they will experience by accepting these cards in payment for tuition -- such as increased collections -- will offset the overall costs incurred by the universities in accepting such cards. The universities estimate the system wide costs will be below \$1 million per year. The source of funds to cover these costs could be any nonappropriated funds such as auxiliary or overhead accounts or concession funds.

The bill also permits, subject to the approval of the State Treasurer, the universities to use compensating balances to cover the costs of accepting these cards. The Comptroller's office

indicates that this approach could have the effect of blurring the cost of accepting the cards. The Treasurer's Office notes that this method of payment is inefficient because compensating balance earnings rates are well below Treasury investment earnings rates.

III. 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 the counties or municipalities 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.

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None noted.

B. RULE-MAKING AUTHORITY:

This bill restricts Treasurer's rule-making authority prohibiting the adoption of rules that would prohibit a university from accepting credit, charge or debit cards without imposing a fee for the use of such cards.

C. OTHER COMMENTS:

N/A

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VI. SIGNATURES:

COMMITTEE ON BANKING:

Prepared by:

Staff Director:

Susan F. Cutchins

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