

AN ACT

To amend section 301.27 and to enact section 301.28 of the Revised Code to allow the use of county credit cards to pay for work-related transportation and Internet service provider expenses and to authorize a board of county commissioners to pass a resolution specifying financial transaction devices that may be accepted for the payment of expenses to county offices.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That section 301.27 be amended and section 301.28 of the Revised Code be enacted to read as follows:

Sec. 301.27. (A) As used in this section:

(1) "Credit card" includes a gasoline credit card and a telephone credit card.

(2) "Officer" includes an individual who also is an appointing authority.

(3) "Gasoline and oil expenses," "minor motor vehicle maintenance expenses," and "emergency motor vehicle repair expenses" refer to only those expenses incurred for motor vehicles owned or leased by the county.

(B) A credit card held by a board of county commissioners or the office of any other county appointing authority shall be used only to pay work-related food, transportation, gasoline and oil, minor motor vehicle maintenance, emergency motor vehicle repair, telephone, ~~and~~ lodging, and internet service provider expenses.

(C) 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 credit card held by that appointing authority. The authorization request shall state whether the card is to be issued only in the name of the office of the appointing authority itself or whether the issued card shall also include the name of a specified officer or employee.

(D) The debt incurred as a result of the use of a credit card pursuant to this section shall be paid from moneys appropriated to the appointing authority for work-related food, transportation, gasoline and oil, minor

motor vehicle maintenance, emergency motor vehicle repair, telephone, ~~and~~ lodging, and internet service provider expenses.

(E)(1) Except as otherwise provided in division (E)(2) of this section, every officer or employee authorized to use a credit card held by the board or appointing authority shall submit to the board by the first day of each month an estimate of the officer's or employee's work-related food, transportation, gasoline and oil, minor motor vehicle maintenance, emergency motor vehicle repair, telephone, ~~and~~ lodging, and internet service provider expenses for that month, unless the board authorizes, by resolution, the officer or employee to submit to the board such an estimate for a period longer than one month. The board may revise the estimate and determine the amount it approves, if any, not to exceed the estimated amount. The board shall certify the amount of its determination to the county auditor along with the necessary information for the auditor to determine the appropriate appropriation line item from which such expenditures are to be made. After receiving 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 appropriate appropriation line item for which the credit card is approved for use, and is free from previous and then-outstanding obligations or certifications, the board shall authorize the officer or employee to incur debt for such expenses against the county's credit up to the authorized amount.

(2) In lieu of following the procedure set forth in division (E)(1) of this section, a board of county commissioners may adopt a resolution authorizing an officer or employee of an appointing authority to use a county credit card to pay for specific classes of the work-related expenses listed in division (B) of this section, or use a specific credit card for any of those work-related expenses listed in division (B) of this section, without submitting an estimate of those expenses to the board as required by division (E)(1) of this section. Prior to adopting the resolution, the board shall notify the county auditor. The resolution shall specify whether the officer's or employee's exemption extends to the use of a specific card, which card shall be identified by its number, or to one or more specific work-related uses from the classes of uses permitted under division (B) of this section. Before any credit card exempted for specific uses may be used to make purchases for uses other than those specific uses listed in the resolution, the procedures outlined in division (E)(1) of this section must be followed or the use shall be considered an unauthorized use. Use of any credit card under division (E)(2) of this section shall 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 credit card, for each of the permitted uses listed in division (B) of this section, but only to the extent the moneys in such appropriations are not otherwise encumbered.

(F)(1) Any time a county credit card approved for use for an authorized amount under division (E)(1) of this section is used for more than that authorized amount, the appointing authority may request the board of county commissioners to authorize after the fact the expenditure of any amount charged beyond the originally authorized amount if, upon the board's request, the county auditor certifies that 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. If the card is used for more than the amount originally authorized and if for any reason that amount is not authorized after the fact, then the county treasury shall be reimbursed for any amount spent beyond the originally authorized amount in the following manner:

(a) If the card is issued in the name of a specific officer or employee, then that officer or employee is liable in person and upon any official bond the officer or employee has given to the county to reimburse the county treasury for the amount charged to the county beyond the originally authorized amount.

(b) If the card was issued to the office of the appointing authority, then the appointing authority is liable in person and upon any official bond the appointing authority has given to the county for the amount charged to the county beyond the originally authorized amount.

(2) Any time a county credit card authorized for use under division (E)(2) of this section is used for more than the amount appropriated under that division, the appointing authority may request the board of county commissioners to issue a supplemental appropriation or make a transfer to the proper line item account as permitted in section 5705.40 of the Revised Code, to cover the amount charged beyond the originally appropriated amount. If the card is used for more than the amount originally appropriated and if for any reason that amount is not appropriated or transferred as permitted by this section, then the county treasury shall be reimbursed for any amount spent beyond the originally appropriated amount in the following manner:

(a) If the card is issued in the name of a specific officer or employee, then that officer or employee is liable in person and upon any official bond the officer or employee has given to the county for reimbursing the county treasury for any amount charged on the card beyond the originally

appropriated amount.

(b) If the card is issued in the name of the office of the appointing authority, then the appointing authority is liable in person and upon any official bond the appointing authority has given to the county for reimbursement for any amount charged on the card beyond the originally appropriated amount.

(3) Whenever any officer or employee authorized to use a credit card held by the board or the office of any other county appointing authority suspects the loss, theft, or possibility of unauthorized use of the county credit card the officer or employee is authorized to use, the officer or employee shall so notify the officer's or employee's appointing authority or the board immediately and in writing.

(4) If the county auditor determines there has been a credit card expenditure beyond the appropriated or authorized amount as provided in division (E) of this section, the auditor immediately shall notify the board of county commissioners of this fact. When the board of county commissioners determines on its own or after notification from the county auditor that the county treasury should be reimbursed for credit card expenditures beyond the appropriated or authorized amount as provided in divisions (F)(1) and (2) of this section, it shall give written notice to the officer or employee or appointing authority liable to the treasury as provided in divisions (F)(1) and (2) of this section. If, within thirty days after issuance of this written notice the county treasury is not reimbursed for the amount shown on the written notice, the prosecuting attorney of the county shall recover that amount from the officer or employee or appointing authority who is liable under this section by civil action in any court of appropriate jurisdiction.

(G) Use of a county credit card for any use other than those permitted under division (B) of this section is a violation of law for the purposes of division (D) of section 2913.21 of the Revised Code.

Sec. 301.28. (A) As used in this section:

(1) "Financial transaction device" includes a credit card, debit card, charge card, or prepaid or stored value card.

(2) "County expenses" includes fees, costs, taxes, assessments, fines, penalties, payments, or any other expense a person owes to a county office under the authority of a county elected official.

(3) "County elected official" includes the county auditor, county treasurer, county engineer, county recorder, county prosecuting attorney, county sheriff, and county coroner, and the clerk of the court of common pleas, the clerk of a county-operated municipal court, and the clerk of a county court.

(B) Notwithstanding any other section Of the Revised Code and except as provided in division (D) of this section, a board of county commissioners may adopt a resolution authorizing the acceptance of payments by financial transaction devices for county expenses. The resolution shall include the following:

(1) A specification of those county elected officials who are authorized to accept payments by financial transaction devices;

(2) A list of county expenses that may be paid for through the use of a financial transaction device;

(3) Specific identification of financial transaction devices that the board authorizes as acceptable means of payment for county expenses. Uniform acceptance of financial transaction devices among different types of county expenses is not required.

(4) The amount, if any, authorized as a surcharge or convenience fee under division (E) of this section for persons using a financial transaction device. Uniform application of surcharges or convenience fees among different types of county expenses is not required.

(5) A specific provision as provided in division (G) of this section requiring the payment of a penalty if a payment made by means of a financial transaction device is returned or dishonored for any reason.

The board's resolution shall also designate the county treasurer as an administrative agent to solicit proposals, within guidelines established by the board in the resolution and in compliance with the procedures provided in division (C) of this section, from financial institutions, issuers of financial transaction devices, and processors of financial transaction devices, to make recommendations about those proposals to the board, and to assist county offices in implementing the county's financial transaction devices program. The county treasurer may decline this responsibility within thirty days after receiving a copy of the board's resolution by notifying the board in writing within that period. If the treasurer so notifies the board, the board shall perform the duties of the administrative agent.

If the county treasurer is the administrative agent and fails to administer the county financial transaction devices program in accordance with the guidelines in the board's resolution, the board shall notify the treasurer in writing of the board's findings, explain the failures, and give the treasurer six months to correct the failures. If the treasurer fails to make the appropriate corrections within that six-month period, the board may pass a resolution declaring the board to be the administrative agent. The board may later rescind that resolution at its discretion.

(C) THE COUNTY SHALL FOLLOW THE PROCEDURES

PROVIDED IN THIS DIVISION WHENEVER IT PLANS TO CONTRACT WITH FINANCIAL INSTITUTIONS, ISSUERS OF FINANCIAL TRANSACTION DEVICES, OR PROCESSORS OF FINANCIAL TRANSACTION DEVICES FOR THE PURPOSES OF THIS SECTION. THE ADMINISTRATIVE AGENT SHALL REQUEST PROPOSALS FROM AT LEAST THREE FINANCIAL INSTITUTIONS, ISSUERS OF FINANCIAL TRANSACTION DEVICES, OR PROCESSORS OF FINANCIAL TRANSACTION DEVICES, AS APPROPRIATE IN ACCORDANCE WITH THE RESOLUTION ADOPTED UNDER DIVISION (B) OF THIS SECTION. PRIOR TO SENDING ANY FINANCIAL INSTITUTION, ISSUER, OR PROCESSOR A COPY OF ANY SUCH REQUEST, THE COUNTY SHALL ADVERTISE ITS INTENT TO REQUEST PROPOSALS IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY ONCE A WEEK FOR TWO CONSECUTIVE WEEKS. THE NOTICE SHALL STATE THAT THE COUNTY INTENDS TO REQUEST PROPOSALS; SPECIFY THE PURPOSE OF THE REQUEST; INDICATE THE DATE, WHICH SHALL BE AT LEAST TEN DAYS AFTER THE SECOND PUBLICATION, ON WHICH THE REQUEST FOR PROPOSALS WILL BE MAILED TO FINANCIAL INSTITUTIONS, ISSUERS, OR PROCESSORS; AND REQUIRE THAT ANY FINANCIAL INSTITUTION, ISSUER, OR PROCESSOR, WHICHEVER IS APPROPRIATE, INTERESTED IN RECEIVING THE REQUEST FOR PROPOSALS SUBMIT WRITTEN NOTICE OF THIS INTEREST TO THE COUNTY NOT LATER THAN NOON OF THE DAY ON WHICH THE REQUEST FOR PROPOSALS WILL BE MAILED.

UPON RECEIVING THE PROPOSALS, THE ADMINISTRATIVE AGENT SHALL REVIEW THEM AND MAKE A RECOMMENDATION TO THE BOARD OF COUNTY COMMISSIONERS ON WHICH PROPOSALS TO ACCEPT. THE BOARD OF COUNTY COMMISSIONERS SHALL CONSIDER THE AGENT'S RECOMMENDATION AND REVIEW ALL PROPOSALS SUBMITTED, AND THEN MAY CHOOSE TO CONTRACT WITH ANY OR ALL OF THE ENTITIES SUBMITTING PROPOSALS, AS APPROPRIATE. THE BOARD SHALL PROVIDE ANY FINANCIAL INSTITUTION, ISSUER, OR PROCESSOR THAT SUBMITTED A PROPOSAL BUT WITH WHICH THE BOARD DOES NOT ENTER INTO A CONTRACT, NOTICE THAT ITS PROPOSAL IS REJECTED. THE NOTICE SHALL STATE THE REASONS FOR THE REJECTION, INDICATE WHOSE PROPOSALS WERE ACCEPTED, AND PROVIDE A COPY OF THE

TERMS AND CONDITIONS OF THE SUCCESSFUL BIDS.

(D) A board of county commissioners adopting a resolution under this section shall send a copy of the resolution to each county elected official in the county who is authorized by the resolution to accept payments by financial transaction devices. After receiving the resolution and before accepting payments by financial transaction devices, a county elected official shall provide written notification to the board of county commissioners of the official's intent to implement the resolution within the official's office. EACH COUNTY OFFICE SUBJECT TO THE BOARD'S RESOLUTION ADOPTED UNDER DIVISION (B) OF THIS SECTION MAY USE ONLY THE FINANCIAL INSTITUTIONS, ISSUERS OF FINANCIAL TRANSACTION DEVICES, AND PROCESSORS OF FINANCIAL TRANSACTION DEVICES WITH WHICH THE BOARD OF COUNTY COMMISSIONERS CONTRACTS, AND EACH SUCH OFFICE IS SUBJECT TO THE TERMS OF THOSE CONTRACTS.

If a county office under the authority of a county elected official is directly responsible for collecting one or more county expenses and the county elected official determines not to accept payments by financial transaction devices for one or more of those expenses, the office shall not be required to accept payments by financial transaction devices, notwithstanding the adoption of a resolution by the board of county commissioners under this section.

Any office of a clerk of the court of common pleas that accepts financial transaction devices on or before July 1, 1999, and any other county office that accepted such devices before January 1, 1998, may continue to accept such devices without being subject to any resolution passed by the board of county commissioners under division (B) of this section, or any other oversight by the board of the office's financial transaction devices program. Any such office may use surcharges or convenience fees in any manner the county elected official in charge of the office determines to be appropriate, and, if the county treasurer consents, may appoint the county treasurer to be the office's administrative agent for purposes of accepting financial transaction devices. In order not to be subject to the resolution of the board of county commissioners adopted under division (B) of this section, a county office shall notify the board in writing within thirty days after the effective date of this section that it accepted financial transaction devices prior to January 1, 1998, or, in the case of the office of a clerk of the court of common pleas, the clerk has accepted or will accept such devices on or before July 1, 1999. Each such notification shall explain how processing costs associated with financial transaction devices are being paid and shall

indicate whether surcharge or convenience fees are being passed on to consumers.

(E) A board of county commissioners may establish a surcharge or convenience fee that may be imposed upon a person making payment by a financial transaction device. The surcharge or convenience fee shall not be imposed unless authorized or otherwise permitted by the rules prescribed by an agreement governing the use and acceptance of the financial transaction device.

IF A SURCHARGE OR CONVENIENCE FEE IS IMPOSED, EVERY COUNTY OFFICE ACCEPTING PAYMENT BY A FINANCIAL TRANSACTION DEVICE, REGARDLESS OF WHETHER THAT OFFICE IS SUBJECT TO A RESOLUTION ADOPTED BY A BOARD OF COUNTY COMMISSIONERS, SHALL CLEARLY POST A NOTICE IN THAT OFFICE AND SHALL NOTIFY EACH PERSON MAKING A PAYMENT BY SUCH A DEVICE ABOUT THE SURCHARGE OR FEE. NOTICE TO EACH PERSON MAKING A PAYMENT SHALL BE PROVIDED REGARDLESS OF THE MEDIUM USED TO MAKE THE PAYMENT AND IN A MANNER APPROPRIATE TO THAT MEDIUM. EACH NOTICE SHALL INCLUDE ALL OF THE FOLLOWING:

(1) A STATEMENT THAT THERE IS A SURCHARGE OR CONVENIENCE FEE FOR USING A FINANCIAL TRANSACTION DEVICE;

(2) THE TOTAL AMOUNT OF THE CHARGE OR FEE EXPRESSED IN DOLLARS AND CENTS FOR EACH TRANSACTION, OR THE RATE of the charge or fee EXPRESSED AS A percentage of THE TOTAL AMOUNT OF THE TRANSACTION, WHICHEVER IS APPLICABLE;

(3) A CLEAR STATEMENT THAT THE SURCHARGE OR CONVENIENCE FEE IS NONREFUNDABLE.

(F) If a person elects to make a payment to the county by a financial transaction device and a surcharge or convenience fee is imposed, the payment of the surcharge or fee shall be considered voluntary and the surcharge or fee is not refundable.

(G) If a person makes payment by financial transaction device and the payment is returned or dishonored for any reason, the person is liable to the county for payment of a penalty over and above the amount of the expense due. The board of county commissioners shall determine the amount of the penalty, which may be either a fee not to exceed twenty dollars or payment of the amount necessary to reimburse the county for banking charges, legal fees, or other expenses incurred by the county in collecting the returned or

dishonored payment. The remedies and procedures provided in this section are in addition to any other available civil or criminal remedies provided by law.

(H) No person making any payment by financial transaction device to a county office shall be relieved from liability for the underlying obligation except to the extent that the county realizes final payment of the underlying obligation in cash or its equivalent. If final payment is not made by the financial transaction device issuer or other guarantor of payment in the transaction, the underlying obligation shall survive and the county shall retain all remedies for enforcement that would have applied if the transaction had not occurred.

(I) A county elected official or employee who accepts a financial transaction device payment in accordance with this section and any applicable state or local policies or rules is immune from personal liability for the final collection of such payments.

SECTION 2. That existing section 301.27 of the Revised Code is hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____