



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

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H.B. 312

132nd General Assembly
(As Introduced)

Reps. Schuring and Greenspan

BILL SUMMARY

- Requires political subdivisions, except counties, to follow procedures for the use of credit cards including adopting a policy, conducting a quarterly review, and in some cases providing itemized receipts to the political subdivision's fiscal officer.
 - In political subdivisions where the fiscal officer does not retain possession of the credit cards or the political subdivision's name does not appear on each card, requires the legislative authority to appoint a compliance officer to oversee use of credit cards.
 - Specifies that the use of credit cards with the purpose to defraud is a violation of the criminal offense "misuse of credit cards."
 - Prohibits the use of debit cards by political subdivisions for any purpose other than law enforcement.
 - Requires all political subdivisions including counties to report to the Auditor of State any amount of money or rewards the political subdivision derives from the use of a credit card rewards program.
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CONTENT AND OPERATION

The bill establishes general procedures political subdivisions must follow when using credit cards by amending or enacting numerous specific provisions that apply to certain types of political subdivisions and one general provision, R.C. 9.21, that applies to all political subdivisions except counties. The specific and general provisions are very similar with a few exceptions as noted throughout this analysis. The bill does not change the law regarding the use of credit cards by counties, which is prescribed in

continuing law by R.C. 301.27. However, counties are subject to the bill's prohibition against the use of debit cards by all political subdivisions except for law enforcement purposes. Finally, chartered municipal corporations probably are not subject to the bill, but nonchartered municipal corporations may be subject to some or all of the bill's requirements; please see the **COMMENT** below for a full discussion on municipal home rule authority and the bill.

Use of credit cards by political subdivisions

All political subdivisions must adopt policy regarding use of credit cards

The bill requires political subdivisions to adopt a policy before first holding a credit card or, if a political subdivision holds a credit card on the bill's effective date, to adopt a policy not later than three months after the effective date. The policy must contain at least all of the following provisions:

- The officers or positions authorized to use a credit card;
- The types of expenses for which the credit card may be used;
- The procedure for use of a credit card;
- How frequently the legislative authority has credit cards reissued;
- The political subdivision's credit card's maximum spending limit or limits; and
- The actions or omissions by an officer or employee that qualify as misuse of a credit card.¹

Some political subdivisions must appoint compliance officer

A political subdivision must appoint a compliance officer if the political subdivision's fiscal officer does not retain general possession and control of all credit cards or if the name of the political subdivision does not appear on each credit card. The compliance officer must oversee officers' and employees' use of credit cards under the

¹ R.C. 9.21(B) (general provision applying to all political subdivisions except counties or a political subdivision specifically addressed in a separate provision), 505.64(A) (townships), 511.234(A) (township park districts), 717.31(A) (municipal corporations), 940.11 (soil and water conservation district), 1545.072(A) (general park districts), 1711.131(A) (agricultural societies), 3313.311(A) (school districts, educational service centers, information technology centers), 3314.52(A) (community schools), 3326.52(A) (science, technology, education, mathematics (STEM) schools), 3328.52(A) (college preparatory boarding schools), 3375.392(A) (library districts), and 6119.60(A) (regional water and sewer districts).

policy. Except in the case of a board of township trustees serving as compliance officer,² a compliance officer may not use a credit card and may not authorize an officer or employee to use a credit card. The political subdivision's fiscal officer is not eligible for appointment as compliance officer.³ In the case of townships and municipal corporations, only limited home rule townships⁴ and municipal corporations having the authority to operate a mayor's court⁵ are subject to this compliance officer requirement; in all other townships and municipal corporations whose fiscal officer does not retain possession and control of credit cards or whose name does not appear on each credit card, the fiscal officer must present monthly to the board of township trustees or legislative authority of the municipal corporation the credit card transaction detail from the previous month. The board or legislative authority must review the transaction detail and sign an attestation stating the board or legislative authority reviewed the detail.⁶

All political subdivisions must conduct quarterly review

The legislative authority of a political subdivision and the compliance officer, if one exists, must review the following at least quarterly: the number of cards issued, the number of active cards issued, the cards' expiration dates, and the cards' credit limits.⁷

If fiscal officer retains possession, credit card users provide itemized receipt

If a fiscal officer retains general possession and control of the credit cards and the legislative authority authorizes officers or employees to use the credit cards, including through a system the fiscal officer utilizes to sign out credit cards to the authorized users, then the officer or employee must provide the fiscal officer an itemized receipt for each charge upon returning the credit card to the fiscal officer. The officer or employee is liable in person and upon any official bond the officer or employee has given to the political subdivision to reimburse the treasury the amount for which the officer or employee does not provide itemized receipts. Any failure by the officer or employee to

² R.C. 505.64(B)(1).

³ R.C. 9.21(C), 505.64(B), 511.234(B), 717.31(B), 940.11(B), 1545.072(B), 1711.131(B), 3313.311(B), 3314.52(B), 3326.52(B), 3328.52(B), 3375.392(B), and 6119.60(B).

⁴ See Chapter 504. of the Revised Code.

⁵ Generally, municipal corporations having a population of more than 200, but see R.C. 1905.01 for the complete list.

⁶ R.C. 505.64(B)(2) and 717.31(B)(2).

⁷ R.C. 9.21(D), 505.64(C), 511.234(C), 717.31(C), 940.11(C), 1545.072(C), 1711.131(C), 3313.311(C), 3314.52(C), 3326.52(C), 3328.52(C), 3375.392(C), and 6119.60(C).



reimburse an amount for which the officer or employee is liable within a reasonable time is a violation of the criminal offense of misuse of credit cards .⁸

Misuse of credit card with purpose to defraud is criminal offense

Additionally, the bill specifies that the use of a credit card for expenses beyond those authorized by the legislative authority, with the purpose to defraud, is a violation of the criminal offense of misuse of credit cards.⁹ Current law regarding the use of credit cards by townships, soil and water conservation districts, general park districts, agricultural societies, and library districts makes the misuse of a credit card a violation of this offense but does not specify "with the purpose to defraud" as the culpable mental state.¹⁰

All political subdivisions must report credit card rewards to Auditor of State

Political subdivisions must report to the Auditor of State, using a process the Auditor must establish, any amount of money or rewards the political subdivision derives from the use of a credit card rewards program. This requirement applies to counties.¹¹

Definition of credit card

The bill defines "credit card" to include any bank-issued credit card, store-issued credit card, and any other card allowing the holder to purchase goods or services on credit, and expressly excludes any procurement card, gasoline or telephone credit card, or any other card where merchant category codes are in place as a system of control for use of the card.¹²

Current law regarding use of credit cards by certain political subdivisions

The bill replaces current law regarding the use of credit cards by townships, township park districts, general park districts, soil and water conservation districts,

⁸ R.C. 2913.21 (based on the facts, the penalty for this offense ranges from a first degree misdemeanor to a second degree felony), 9.21(E), 505.64(D), 511.234(D), 717.31(D), 940.11(D), 1545.072(D), 1711.131(D), 3313.311(D), 3314.52(D), 3326.52(D), 3328.52(D), 3375.392(D), and 6119.60(D).

⁹ R.C. 2913.21(B)(5), 9.21(F), 505.64(E), 511.234(E), 717.31(E), 940.11(E), 1545.072(E), 1711.131(E), 3313.311(E), 3314.52(E), 3326.52(E), 3328.52(E), 3375.392(E), and 6119.60(E).

¹⁰ R.C. 505.64(B), 940.11, 1545.072(B), 1711.131(D), and 3375.392(B).

¹¹ R.C. 117.102.

¹² R.C. 9.21(A), 505.64(F), 511.234(F), 717.31(F), 940.11(F), 1545.072(F), 1711.131(F), 3313.311(F), 3314.52(F), 3326.52(F), 3328.52(F), 3375.392(F), and 6119.60(F).



agricultural societies, and library districts. For those types of political subdivisions, current law generally provides that credit cards be used only for work-related expenses¹³ and that money be appropriated or certain funds be used for such purposes.¹⁴ Only agricultural societies currently are required to adopt a policy regarding the use of credit cards.¹⁵ Officers and employees generally are liable in person and upon official bond for any unauthorized use of credit cards and any officer or employee who suspects the loss, theft, or possibility of unauthorized use of a credit card must notify their legislative authority immediately.¹⁶ For townships and agricultural societies, the prosecuting attorney of the applicable county must recover the amount of any authorized expenses incurred by an officer or employee by civil action.¹⁷

Prohibition against use of debit cards by political subdivisions

The bill prohibits the use of debit cards by political subdivisions including counties, except for law enforcement purposes. A political subdivision that uses a debit card for any other purpose is guilty of the criminal offense of misuse of credit cards.¹⁸

COMMENT

Under the Ohio Constitution, a municipal corporation may regulate all matters of local self-government,¹⁹ but the General Assembly may limit or restrict the power of a municipality to incur debt.²⁰ Credit or debit card usage by a municipal corporation is likely a matter of local self-government, and although the General Assembly may limit a municipality's aggregate indebtedness, the Ohio Supreme Court has held the General Assembly "may not . . . prescribe the manner and method which a municipal corporation must follow" in incurring debt.²¹ However, this case was decided before the

¹³ R.C. 505.64(A) (townships), 511.234(A) (township park districts), 940.11 (soil and water conservation districts), 1545.072(A) (general park districts), 1711.131(A) (agricultural societies), and 3375.392(A) (library districts).

¹⁴ R.C. 505.64(A), 511.234(A), 940.11, 1545.072(A), and 3375.392(A).

¹⁵ R.C. 1711.131(A).

¹⁶ R.C. 505.64(B) and (C), 511.234(D) and (E), 940.11, 1545.072(C) and (D), 1711.131(B) and (C), and 3375.392(B) and (C).

¹⁷ R.C. 505.64 and 1711.131(B).

¹⁸ R.C. 9.22 and 3313.291.

¹⁹ Ohio Const., art. XVIII, sec. 3.

²⁰ Ohio Const., art. XVIII, sec. 13.

²¹ *State ex rel. Cronin v. Wald*, 26 Ohio St.2d 22 (1971).



Court made a distinction between *procedural* and *substantive* matters of local self-government; chartered municipalities may deviate from state law on both procedural and substantive matters while nonchartered municipal corporations may deviate only on substantive matters. In other words, nonchartered municipal corporations must follow state laws that establish procedures for self-government.²² A court may decide the bill's requirements are procedural rather than substantive, in which case they will apply to nonchartered municipal corporations. Or, a court may decide that municipal use and regulation of credit and debit cards is substantive, and therefore a valid exercise of municipal home rule by all municipal corporations. In either case, chartered municipal corporations probably may deviate from the bill's requirements.

HISTORY

ACTION	DATE
Introduced	07-26-17

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²² *Northern Ohio Patrolmen's Benevolent Ass'n. v. Parma*, 61 Ohio St.2d 375 (1980).

