

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **HB 724** HLS 14RS 678
 Bill Text Version: **ORIGINAL**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

Date: March 4, 2014 9:40 AM	Author: IVEY
Dept./Agy.:	Analyst: Travis McIlwain
Subject: State Transactions	

STATE AGENCIES OR INCREASE GF EX See Note Page 1 of 2
 Requires state departments, agencies, boards, and commissions to accept credit cards, debit cards or electronic payments

Proposed law provides that the Department of Public Safety (DPS) and other state agencies shall accept credit cards, debit cards and electronic payments. Current law provides that a fee charged by a third-party processor for the Department of Revenue, Department of Insurance, Department of Transportation & Development, Department of Public Safety & Corrections, Department of Wildlife & Fisheries and the Department of Environmental Quality shall be a convenience fee paid directly to the private entity by the payor and not considered a state charge. Proposed law amends current law that a fee charged by a third-party processor for any state entity shall be a convenience fee paid directly to the private entity by the payor and not considered a state charge. Effective January 1, 2015.

EXPENDITURES	2014-15	2015-16	2016-17	2017-18	2018-19	5 -YEAR TOTAL
State Gen. Fd.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Agy. Self-Gen.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Ded./Other	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Federal Funds	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Local Funds	\$0	\$0	\$0	\$0	\$0	\$0
Annual Total						

REVENUES	2014-15	2015-16	2016-17	2017-18	2018-19	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	\$0	\$0	\$0	\$0	\$0	\$0
Annual Total						

EXPENDITURE EXPLANATION

The proposed legislation may result in an indeterminable increase in state expenditures that will ultimately be borne by consumers through convenience fees. This bill mandates that all state agencies including boards & commissions accept credit/debit card payments. Currently, there are two methods by which a state agency can voluntarily begin to accept debit/credit cards and the method chosen will ultimately determine whether there is a cost to the state agency. As discussed below, the 1st method will result in an increase in start up costs and transactional interchange fees (to be offset with a convenience fee paid by the consumer), while the 2nd method would require \$0 startup costs and \$0 interchange fees as a vendor selected through RFP (third party solution) would incur the costs, which in turn will be recouped through fees paid by the consumer.

1st Method: The first method, which will require start up costs, includes paying a \$500 fee to State Treasury for the creation of its payment gateway (Pay Point). State Treasury currently has a statewide contract in place with First Data (state's third party processor) for all credit/debit card transactions. This method will require the state agency to purchase credit card readers, pin machines and pay interchange fees. These costs would be offset by a convenience fee that is allowed to be collected from the payor to the agency.

Below is an example of the potential costs to be incurred by a state agency utilizing the 1st method for a typical credit card swipe and how much the convenience fee would need to be in order for the state agency to cover its costs for a \$100 transaction (Based upon the current state contract with First Data:

- \$0.06 Per transaction paid to First Data (State contract rate with State Treasury)
- \$0.15 Per transaction amount paid by utilizing Pay Point (payment gateway discussed above)
- \$1.80 Interchange rate paid to credit card companies (All rates are different and 1.8% is the average among the companies)
- \$0.02 Per transaction Trans Armor services (Service provided to protect information gained from swipe - see page 2)
- \$2.03 Total Transactional Costs**

*Based upon the example above, a \$100 swipe would result in a \$2.03 convenience fee that will be paid by the consumer in addition to the normal fees to be paid by the consumer. This \$2.03 would be the convenience fee. **(Cont. on page 2)**

REVENUE EXPLANATION

As discussed in the expenditure section above, the method chosen for complying with the proposed law will determine the revenue impact. If method 1 is utilized, the state agency will collect convenience fees (to offset expenditures) in accordance with State Treasury's contract with First Data. If method 2 is utilized, there will no impact upon state revenue collections as the third party solution vendor will be collecting the fee on behalf of the state and keeping the agreed amount based upon per transaction rates included in the contract. The consumer will pay for these costs of the vendor through fees.

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|--|----------------------------|-------|--|
| Senate | <u>Dual Referral Rules</u> | House | <input checked="" type="checkbox"/> 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S} |
| <input checked="" type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H} | | | <input type="checkbox"/> 6.8(F)(2) >= \$500,000 State Rev. Red. {H & S} |
| <input checked="" type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H} | | | <input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S} |

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CONTINUED EXPLANATION from page one:

2nd Method: The second method will require \$0 for start up costs and \$0 merchant fees. This requires the state agency to issue an RFP for a third party solution. This type of vendor will pay for all start up costs, merchant fees and recoup these costs through a negotiated per transaction rate. Current law allows for DPS, Revenue, DOTD, DEQ, Insurance and Wildlife & Fisheries to enter into such agreements. For **illustrative purposes**, to the extent all non-credit/debit card accepting state agencies structure their vendor contract in a similar fashion to the Office of Motor Vehicles (OMV), the start up costs and transactional interchange charged to the state would be \$0. The third party solution would incur those costs. OMV's vendor is currently installing credit/debit card readers in all field offices at no cost to the agency. The vendor will recoup these startup costs and interchange fees (fees paid to Master Card, Visa, Discover, & AMEX) through the negotiated transactions as follows: \$1 per all transactions, \$1.25 per debit card transactions, 1.25% per credit card transaction and \$1 per echeck transaction. These fee collections will be paid by the consumer and utilized by the vendor to offset the interchange fees to the major credit card networks. This bill eliminates the department limits and gives all state agencies the ability to utilize the services of a third party solution.

OTHER COST CONSIDERATIONS

Small State Agency Impact: Due to the potential number of transactions that could limit the attractiveness to a third party solution, smaller state agencies (such as most state boards & commissions) will likely have to employ the 1st method. This method will require startup costs and incurring monthly interchange fees, which will likely have a budgetary impact. For example, the Board of Tax Appeals has a recommended FY 15 budget of \$578,338 (\$535,931 SGF, \$20,500 SGR) and 5 TO positions. To the extent this bill is enacted, this agency will likely need a budget authority increase in order to cover the startup costs and have the ability to collect the additional convenience fees. Due to the start up being a sunk costs, depending upon the number of transaction completed during the first year, an additional SGF appropriation may be required in the first year of implementation. The Board of Tax Appeals currently accepts personal checks for its filing fees and copy fees.

Quality Security Assessment (QSA) Costs: The credit card industry currently has in place 4 different levels of data security standards. These standards are based upon the number of annual transactions. Based upon the current annual transactions, under the statewide contract with the State Treasury the security standard is a level 4 (lowest). To the extent this bill is enacted and more state agencies (especially the smaller ones) begin accepting credit/debit cards, the state will more than likely increase its level to at least a level 2 (1 million to 6 million transactions). This increase in security level will require an additional vendor to provide QSA analysis on the safety of the information included within each of those transactions on an annual and/or quarterly basis. The specific costs of a vendor performing this work in unknown at this time. However, to the extent the state were to include Trans Armor (service provided by First Data to protect credit/debit card information), the QSA costs would be less than if the state did not have such a service. Current rate for Trans Armor is \$0.02/transaction.

Depth of Impact: As previously discussed, the proposed bill impacts all state agencies and various isis (state's financial accounting system) and non-isis boards & commissions. Because of the minimal level of transactions of the boards and commissions compared to the larger state agencies, these entities will likely not have the benefit of utilizing a third party solution. Thus, these agencies will likely incur startup costs and transactional interchange fees that could exceed \$100,000 in the aggregate. Based upon the \$100 example previously discussed, approximately 50,000 transactions in the amount of \$100 each would result in annual aggregate interchange fees of at least \$100,000. The Board of Tax Appeals, which is one of many state boards, processes approximately 30,000 transactions annually. The specific number of these transaction that would actually be processed via credit cards is unknown at this time. However, the LFO believes that including all state boards & commissions would result in annual statewide aggregate expenditures by these smaller agencies of \$100,000, which will be offset by the convenience fee.

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