

2015 Regular Session

HOUSE BILL NO. 638

BY REPRESENTATIVE IVEY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

STATE AGENCIES: Provides for the collection of fees associated with payments to state agencies by credit cards, debit cards, or other forms of electronic payments

1 AN ACT

2 To amend and reenact R.S. 40:1322(B) and R.S. 49:316.1, relative to state agencies; to  
3 provide for fees charged by state departments, agencies, boards, and commissions  
4 on certain transactions made by credit cards, debit cards, and similar payments of  
5 obligations; to provide for electronic payments; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 40:1322(B) is hereby amended and reenacted to read as follows:

8 §1322. Credit card, charge card, and debit card transactions with the Department of  
9 Public Safety and Corrections; procedures for acceptance; administrative  
10 action

11 \* \* \*

12 ~~B.(1) The department may charge a convenience fee of one dollar on any~~  
13 ~~transaction whereby a person uses such a card for payment through a touch-tone~~  
14 ~~telephone or through the Internet.~~

15 (2) The department may charge a convenience fee on any transaction  
16 whereby a customer appears in person requests payment by credit card, charge card,  
17 or debit card for payment through telephone, in person, by regular mail, or via the  
18 internet to conduct business with the department ~~and requests payment by credit~~  
19 ~~card, charge card, or debit card.~~ Prior to charging the convenience fee, the total  
20 amount of the fee shall be disclosed to the customer. The customer shall have the

1 right to decline payment of the fee and to submit payment for his transaction using  
 2 another tender type. The convenience fee ~~shall be~~ may be a uniform dollar amount,  
 3 a percentage of the ~~transaction with a minimum fee of one dollar and a maximum fee~~  
 4 ~~of one hundred fifty dollars. The percentage rate used to calculate the fee shall be~~  
 5 ~~the percentage rate used by the bank to calculate its processing fee.~~ transaction, or  
 6 a tiered amount based on the transaction amount.

\* \* \*

8 Section 2. R.S. 49:316.1 is hereby amended and reenacted to read as follows:

9 §316.1. Payments by treasury approved credit cards, and debit cards, and other  
 10 forms of electronic payments; authorizations; contracts; fees

11 A.(1) The state, through any department, agency, board, commission, or  
 12 other state entity hereinafter referred to as "state entity" may accept payment of any  
 13 obligation such state entity is authorized to collect, including; but not limited to;  
 14 taxes, fees, charges, licenses, service fees or charges, fines, penalties, interest,  
 15 sanctions, stamps, surcharges, assessments, obligations, and any other similar  
 16 charges or obligations to any state entity hereinafter referred to collectively as "state  
 17 charges" by credit cards, debit cards, ~~or similar payment devices~~ and any other forms  
 18 of electronic payments approved by the treasurer as provided in this Section.

19 (2)(a) The state treasurer shall establish a fee for approved payment of  
 20 transactions authorized by this Section for each card ~~or device~~ and any other forms  
 21 of electronic payment and for each method of conducting transactions to be accepted.  
 22 The fee shall be established as uniformly as possible. When accepting such cards or  
 23 ~~devices~~ any other forms of electronic payments as authorized by this Section, any  
 24 state entity ~~shall~~ may assess a fee, if such fee has been established and in the amount  
 25 established by the treasurer pursuant to this Section, provided that for each method  
 26 of conducting transactions by the state entity, the fee is a uniform dollar ~~amount or~~  
 27 ~~percentage assessed for each card or device and for each method of conducting~~  
 28 ~~transactions to be accepted by the state entity, and such~~ amount, a percentage of the  
 29 transaction, or a tiered amount based on the transaction amount assessed for each

1 card and any other form of electronic payment. Such fee shall be considered a "state  
2 charge" as provided in this Section. The provisions of this Paragraph shall not be  
3 applicable to public postsecondary institutions of higher education or to transactions  
4 administered by a third-party ~~processor for the Department of Revenue, the~~  
5 ~~Department of Insurance, the Department of Transportation and Development, the~~  
6 ~~Department of Public Safety and Corrections, the Department of Wildlife and~~  
7 ~~Fisheries, or the Department of Environmental Quality~~ solution.

8 (b) Notwithstanding the provisions of Subparagraph (2)(a) of this Subsection  
9 and Subsection C of this Section, each public postsecondary institution of higher  
10 education may assess a fee, for each card ~~or device~~ and any other forms of electronic  
11 payment, and for each method of conducting transactions, to be accepted for  
12 approved payment of transactions authorized by this Section. The amount of any  
13 such fee shall be as determined by the respective public postsecondary institution of  
14 higher education and shall be considered a "state charge" as provided in this Section.  
15 Each public postsecondary institution of higher education may negotiate and enter  
16 into contracts, for periods not to exceed five years, for provision of, and activities  
17 related to, the use of such cards ~~or devices~~ and any other forms of electronic  
18 payments. Contracts may be made with financial providers, third-party ~~processors,~~  
19 ~~solutions,~~ or providers for Internet and other similar use and payment acceptance  
20 with respect to such cards ~~or devices~~ and any other forms of electronic payments.

21 (c) Notwithstanding the provisions of Subparagraphs (a) and (b) of this  
22 Paragraph, the fee charged by a third-party ~~processor~~ solution ~~for the Department of~~  
23 ~~Revenue, the Department of Insurance, the Department of Transportation and~~  
24 ~~Development, the Department of Public Safety and Corrections, the Department of~~  
25 ~~Wildlife and Fisheries, or the Department of Environmental Quality~~ any state entity  
26 shall be a convenience fee paid directly to the private entity third-party ~~processor~~  
27 solution by the payor and shall not be considered a "state charge" as provided in this  
28 Section. However, the amount of the convenience fee, after review and  
29 recommendation by the treasurer, shall be approved by the Senate Committee on

1 Revenue and Fiscal Affairs and the House Committee on Ways and Means. In  
2 addition, the amount of the convenience fee shall be disclosed to the payor before the  
3 transaction is completed, and the payor shall be given the option of canceling the  
4 transaction at that time.

5 (3) For the purpose of this Section, third-party solution shall mean a company  
6 that provides a software application, a gateway, or both to capture credit card and  
7 any other forms of electronic payments for processing by a merchant services  
8 acquirer.

9 ~~(3)~~ (4) The authorization and use of credit and debit cards and ~~similar~~  
10 ~~payment devices~~ any other forms of electronic payments to make or accept payment  
11 for any government charge or required payment shall be in accordance with the  
12 provisions of this Section, and any rules, regulations, contracts, agreements, or  
13 policies promulgated or entered into pursuant to this Section.

14 B. When a state entity accepts payment of any state charge by any card or  
15 ~~device~~ other forms of electronic payment, the liability therefor is not finally  
16 discharged and obligation for payment of such state charge is not extinguished until  
17 the state entity has received final settlement, payment, or other credit in full for the  
18 state charge and any additional permissible fees associated with the transaction.  
19 Upon receipt of the final settlement, payment, or other credit, the state charge shall  
20 be deemed paid on the date the credit or debit charge was initially made.

21 C. The treasurer shall designate any credit cards, debit cards, or ~~similar~~  
22 ~~payment devices~~ other forms of electronic payments that state entities may accept  
23 to receive payment of any state charges, and shall from time to time, but at least  
24 annually, publish a list of approved credit and debit cards by card organization brand  
25 by which any state entity will be authorized to accept payment of any charge or  
26 payment the state entity is authorized to collect. Any state entity may recommend  
27 that the treasurer consider a specific credit or debit card by card organization brand  
28 for approval. Except as provided in Subparagraph (A)(2)(b) of this Section, he shall  
29 have authority to negotiate and enter into all contracts, for periods not to exceed five

1 years, with providers of such cards or ~~devices~~ other forms of electronic payments,  
2 including ~~master or statewide financial providers~~ merchant service acquirers, third-  
3 party ~~processors~~solutions, or providers for Internet and other similar use and  
4 payment acceptance using such cards or ~~devices~~ other forms of electronic payments.  
5 In negotiating such contracts and approving designated cards or ~~devices~~ and other  
6 forms of electronic payments, the treasurer shall seek to achieve uniform  
7 implementation and standard terms and provisions with respect to the acceptance of  
8 payments by state entities, in order to achieve maximum efficiency, uniformity, and  
9 cost effectiveness. Any contracts pursuant to this Section may include such  
10 provisions, terms, and conditions as the treasurer shall deem necessary or appropriate  
11 to fulfill those purposes, including specific terms applicable to any particular state  
12 entity, such as any limitations on amounts and limits of liabilities eligible for  
13 payment, operational requirements, types, terms, and payment of fees.

14 D. The treasurer shall by rule establish procedures and guidelines for the  
15 approval and operation of any cards or ~~devices~~ and other forms of electronic  
16 payments, and fix applicable processing fees, pursuant to this Section.

17 E. The authorizations for and use of any cards or ~~devices~~ and other forms of  
18 electronic payments by any state department, agency, board, commission, or other  
19 state entity, to accept payment for any state charges, shall be pursuant to and in  
20 accordance with this Section, notwithstanding any other provisions of law.

21 F. Any contracts or other binding arrangements for acceptance of credit or  
22 debit cards or ~~any other devices~~ other forms of electronic payments, in existence on  
23 August 15, 1999, shall not be affected by this Section and shall be honored according  
24 to their terms.

25 G. The provisions of this Section shall not apply to any payments made  
26 through a nationwide licensing or registry system, or any payments made pursuant  
27 to the Louisiana Securities Law, as provided for in R.S. 51:701 et seq.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 638 Reengrossed

2015 Regular Session

Ivey

**Abstract:** Provides relative to the collection of fees associated with payments to state agencies made by a customer through credit cards, debit cards, or other forms of electronic payments.

Present law authorizes state agencies to accept credit cards, debit cards, and similar payment devices approved by the treasurer and provides for the treasurer to establish fees for such transactions (R.S. 49:316.1). Further provides for a separate authorization for the Dept. of Public Safety and Corrections, public safety services to accept similar payments (R.S. 40:1322).

Present law (R.S. 40:1322) authorizes the collection of convenience fees on credit card transactions authorized for the Dept. of Public Safety and Corrections including a \$1 fee for transactions through a telephone or Internet and a fee on transactions where the customer appears in person with a minimum charge of \$1 and a maximum charge of \$150 allowed. Present law further provides that the percentage rate used to calculate the fee on in-person transactions is the percentage rate used by the bank to calculate its processing fee.

Proposed law changes the provisions regarding the amount of the convenience fee from a required amount to a fee that may either be a uniform dollar amount, a percentage of the transaction, or a tiered amount based on the transaction amount.

Present law (R.S. 49:316.1) requires agencies that accept credit card payments to assess certain fees, as established by the treasurer, when accepting payment as authorized in present law. Proposed law removes requirement to assess such fee and provides that the assessment of the fee is permissive.

Proposed law further changes the provisions regarding the amount of the convenience fee from a uniform dollar amount to a fee that may either be a uniform dollar amount, a percentage of the transaction, or a tiered amount based on the transaction amount.

Proposed law changes one of the payment methods authorized to be accepted from "similar payment devices" to "other forms of electronic payments" to broaden the forms of payment that can be accepted by state agencies.

Present law allows certain agencies to use a third-party processor to collect a convenience fee on payments authorized in present law. Further, the amount of the convenience fee shall be approved by the Senate Committee on Revenue and Fiscal Affairs and The House Committee on Ways and Means. The agencies permitted in present law to use the third-party processor are the following:

- (1) Department of Revenue.
- (2) Department of Insurance.
- (3) Department of Transportation and Development.
- (4) Department of Public Safety and Corrections.
- (5) Department of Wildlife and Fisheries.

## (6) Department of Environmental Quality.

Proposed law provides for review and recommendation of the treasurer on the fee charged by a third-party solution.

Proposed law changes the term of the third-party that is authorized in present law from "third-party processor" to "third-party solution" and further defines third-party solution.

Proposed law changes the agencies allowed to use a third-party solution to collect a convenience fee from those agencies specifically authorized in present law to any state entity.

Proposed law does not apply to any payments made through a nationwide licensing or registry system, or any payments made pursuant to present law in the Louisiana Securities Law.

(Amends R.S. 40:1322(B) and R.S. 49:316.1)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Appropriations to the original bill:

1. Change the provisions regarding the amount of the convenience fee from a required or uniform dollar amount to a fee that may either be a uniform dollar amount, a percentage of the transaction, or a tiered amount based on the transaction amount.
2. Provide for review and recommendation of the treasurer on the fee charged by a third-party solution.
3. Exclude application of present and proposed law from any payments made through a nationwide licensing or registry system, or any payments made pursuant to present law in the Louisiana Securities Law.

The House Floor Amendments to the engrossed bill:

1. Technical changes.