

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 222
Finance Committee Substitute Adopted 5/20/99

Short Title: Government Accept Electronic Payment.

(Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR STATE AND LOCAL GOVERNMENTS TO ACCEPT CREDIT CARDS, CHARGE CARDS, DEBIT CARDS, AND ELECTRONIC FUNDS TRANSFERS FOR PAYMENT OF GOVERNMENT FEES, COSTS, AND DEBTS, AND TO ALLOW LOCAL GOVERNMENTS TO ACCEPT CREDIT CARDS, CHARGE CARDS, DEBIT CARDS, AND ELECTRONIC FUNDS TRANSFERS FOR PAYMENT OF PROPERTY TAXES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-228.90(b) is amended by adding a new subdivision to read:

"(3a) Electronic payment. – Payment by charge card, credit card, debit card, or by electronic funds transfer as defined in this subsection."

Section 2. G.S. 147-86.10 reads as rewritten:

"§ 147-86.10. Statement of policy.

It is the policy of the State of North Carolina that all agencies, institutions, departments, bureaus, boards, ~~commissions~~ commissions, and officers of the State, whether or not subject to the Executive Budget Act, Chapter 143, Article 1 of the General Statutes, shall devise techniques and procedures for the receipt, deposit, and disbursement of moneys coming into their control and custody which are designed to maximize

1 interest-bearing investment of cash, and to minimize idle and nonproductive cash
2 balances. This policy shall apply to the General Court of Justice as defined in Article IV
3 of the North Carolina Constitution, the public school administrative units, and the
4 community colleges with respect to the receipt, deposit, and disbursement of moneys
5 required by law to be deposited with the State Treasurer and with respect to moneys
6 made available to them for expenditure by warrants drawn on the State Treasurer. This
7 policy shall include the acceptance of electronic payments in accordance with G.S. 147-
8 86.22 to the maximum extent possible consistent with sound business practices."

9 Section 3. G.S. 147-86.22(b) reads as rewritten:

10 "(b) ~~Credit Card Electronic Payment.~~ – Notwithstanding the provisions of G.S. 147-
11 86.20 and G.S. 147-86.21, this subsection applies to debts owed a community college, a
12 local school administrative unit, an area mental health, developmental disabilities, and
13 substance abuse authority, and the Administrative Office of the Courts, and to debts
14 payable to or through the office of a clerk of superior court or a magistrate, as well as to
15 debts owed to other State agencies as defined in G.S. 147-86.20. The State Controller
16 may shall establish policies that allow accounts receivable to be payable under certain
17 conditions, with the concurrence of the State Treasurer, by credit card. conditions by electronic
18 payment as defined in G.S. 105-228.90(b).

19 These policies shall be established with the concurrence of the State Treasurer. In
20 addition, any policies that apply to debts payable to or through the office of a clerk of
21 superior court or a magistrate shall be established with the concurrence of the
22 Administrative Officer of the Courts. The Administrative Officer of the Courts may also
23 establish policies otherwise authorized by law that apply to these debts as long as those
24 policies are not inconsistent with the Controller's policies.

25 A condition of payment by ~~credit card~~ electronic payment is receipt by the appropriate
26 State agency of the full amount of the account receivable owed to the State agency. A
27 debtor who pays by ~~credit card~~ electronic payment shall may be required to include an
28 amount equal to any fee charged by a depository financial institution for processing the credit
29 card payment. pay any fee or charge associated with the use of electronic payment.

30 Subject to approval by the State Controller and State Treasurer, fees associated with
31 processing electronic payments shall be paid out of the General Fund and Highway Fund
32 when the process is economically beneficial to the State. The State may impose a fee for
33 the use of electronic payment when applicable.

34 The State Controller and State Treasurer shall consult with the Joint Legislative
35 Commission on Governmental Operations before establishing policies that allow
36 accounts receivable to be payable by electronic payment in accordance with this
37 subsection and before authorizing fees associated with electronic payment to be paid out
38 of the General Fund and Highway Fund in accordance with this subsection. A State
39 agency must also consult with the Joint Legislative Commission on Governmental
40 Operations before implementing any program to accept payment under this subsection.

41 A payment of an account receivable that is made by ~~credit card~~ electronic payment and
42 is not honored by the issuer of the ~~credit card~~ or the financial institution offering

1 electronic funds transfer does not relieve the debtor of the obligation to pay the account
2 receivable."

3 Section 4. G.S. 147-86.11 reads as rewritten:

4 **"§ 147-86.11. Cash management for the State.**

5 (a) Uniform Plan. – The State Controller, with the advice and assistance of the
6 State Treasurer, the State Budget Officer, and the State Auditor, shall develop, implement
7 and amend as necessary a uniform statewide plan to carry out the cash management
8 policy for all State agencies. The State Auditor shall report annually to the Advisory
9 Budget Commission and the General Assembly on the implementation of the plan as
10 shown in the audits completed during the prior fiscal year. The State Treasurer shall
11 recommend periodically to the General Assembly any implementing legislation necessary
12 or desirable in the furtherance of the State policy. When used in this section, 'State
13 agency' means any agency, institution, bureau, board, commission or officer of the State;
14 however, except as provided in G.S. 147-86.12, 147-86.13, ~~and 147-86.14, 147-86.14, and~~
15 147-86.22, this Article ~~shall~~ does not apply to the agencies, institutions, bureaus, boards,
16 commissions and officers of the General Court of Justice as defined in Article IV of the
17 North Carolina Constitution or to the local school administrative units and community
18 colleges and their officers and employees.

19 (b) Duties of Auditor. – The State Auditor pursuant to ~~his~~ authority under G.S.
20 147-64.6 shall monitor agency compliance with this Article, and make any comments,
21 suggestions, and recommendations ~~he~~ the Auditor deems advisable to the agencies.

22 (c) Treasurer's Report. – The State Treasurer shall publish a quarterly report on all
23 funds in the control or custody of the State Treasurer showing cash balances on hand,
24 investments of cash balances and a comparative analysis of earnings and investment
25 performances.

26 (d) Earnings on Trust Funds. – The statewide cash management plan shall provide
27 that any net earnings on invested funds, whose beneficial owner is not the State or a local
28 governmental unit, shall be paid to the beneficial owners of the funds. 'Net earnings' are
29 the amounts remaining after allowance for the cost of administration, management, and
30 operation of the invested funds.

31 (e) Elements of Plan. – For moneys received or to be received, the statewide cash
32 management plan shall provide at a minimum that:

33 (1) Except as otherwise provided by law, moneys received by
34 employees of State agencies in the normal course of their
35 employment shall be deposited as follows:

36 a. Moneys received in trust for specific beneficiaries for which the
37 employee-custodian has a duty to invest shall be deposited with
38 the State Treasurer under the provisions of G.S. 147-69.3.

39 b. All other moneys received shall be deposited with the State
40 Treasurer pursuant to G.S. 147-77 and G.S. 147-69.1.

41 (2) Moneys received shall be deposited daily in the form and amounts
42 received, except as otherwise provided by ~~statute~~; statute.

- 1 (3) Moneys due to a State agency by another governmental agency or by
2 private persons shall be promptly billed, collected and ~~deposited;~~
3 deposited.
- 4 (4) Unpaid billings due to a State agency shall be turned over to the
5 Attorney General for collection no more than 90 days after the due
6 date of the billing, except that a State agency need not turn over to
7 the Attorney General unpaid billings of less than five hundred
8 dollars (\$500.00), or (for institutions where applicable) amounts
9 owed by all patients which are less than the federally established
10 deductible applicable to Part A of the Medicare program, and instead
11 may handle these unpaid bills pursuant to agency debt collection
12 ~~procedures; and procedures.~~
- 13 (5) Moneys received in the form of warrants drawn on the State
14 Treasurer shall be deposited by the State agency directly with the
15 State Treasurer and not through the banking system, unless
16 otherwise approved by the State Treasurer.
- 17 (6) State agencies shall accept payment by electronic payment in
18 accordance with G.S. 147-86.22 to the maximum extent possible
19 consistent with sound business practices.
- 20 (f) Disbursement Requirements. – For the disbursement of money, the statewide
21 cash management plan shall provide at a minimum that:
- 22 (1) Moneys deposited with the State Treasurer remain on deposit with
23 the State Treasurer until final disbursement to the ultimate ~~payee;~~
24 payee.
- 25 (2) The order in which appropriations and other available resources are
26 expended shall be subject to the provisions of G.S. 143-27 regardless
27 of whether the State agency disbursing or expending the moneys is
28 subject to the Executive Budget ~~Act;~~ Act.
- 29 (3) Federal and other reimbursements of expenditures paid from State
30 funds shall be paid immediately to the source of the State ~~funds;~~
31 funds.
- 32 (4) Billings to the State for goods received or services rendered shall be
33 paid neither early nor late but on the discount date or the due date to
34 the extent ~~practicable; and practicable.~~
- 35 (5) Disbursement cycles for each agency shall be established to the
36 extent practicable so that the overall efficiency of the warrant
37 disbursement system is maximized while maintaining prompt
38 payment of bills due.
- 39 (g) Interest Maximized. – The interest earnings of the General Fund and Highway
40 Fund shall be maximized to the extent practicable. To this end:
- 41 (1) Interest earnings shall not be allocated to an account by the State
42 Treasurer unless all of the moneys in the account are expressly
43 eligible by law for receiving interest ~~allocations;~~ allocations.

1 (2) State officers and employees who received moneys in trust or for
2 investment shall be solely responsible for properly segregating such
3 funds for investment in the manner prescribed by law. The officer or
4 employee charged with the responsibility for these moneys shall be
5 under a duty to segregate the funds in a timely manner. No
6 investment income shall be allocated by the State Treasurer to trust
7 or other investment accounts until properly segregated into
8 investment accounts as provided by law and the rules of the State
9 Treasurer.

10 (h) New Technologies. – The statewide cash management plan shall consider new
11 technologies and procedures whenever the technologies and procedures are economically
12 beneficial to the State as a whole. Where the new technologies and procedures may be
13 implemented without additional legislation, the technologies and procedures shall be
14 implemented in the plan.

15 (i) Penalty. – A willful or continued failure of an employee paid from State funds
16 or employed by a State agency to follow the statewide cash management plan is sufficient
17 cause for immediate dismissal of the employee."

18 Section 5. Article 3 of Chapter 159 of the General Statutes is amended by
19 adding a new section to read:

20 "**§ 159-32.1. Electronic payment.**

21 A unit of local government or public authority may, in lieu of payment by cash or
22 check, accept payment by electronic payment as defined in G.S. 105-228.90(b) for
23 any tax, assessment, rate, fee, charge, rent, interest, penalty, or other receivable owed to
24 it. A unit of local government or public authority may pay any negotiated discount,
25 processing fee, transaction fee, or other charge imposed by a credit card, charge card, or
26 debit card company, or by a third-party merchant bank, as a condition of contracting for
27 the unit's or the authority's acceptance of electronic payment. A unit or authority may
28 impose the fee or charge as a surcharge on the amount paid by the person using electronic
29 payment."

30 Section 6. G.S. 105-357(b) reads as rewritten:

31 "(b) ~~Acceptance of Checks and Credit Cards.~~Checks and Electronic Payment. – The
32 tax collector may accept ~~checks, credit cards,~~ checks and electronic payments, as defined
33 in G.S. 105-228.90(b), or both in payment of ~~taxes.~~ taxes, as authorized by G.S. 159-32.1.
34 Acceptance of a check or ~~credit card~~ electronic payment is at the tax collector's own risk.
35 A tax collector who accepts ~~credit cards in payment~~ electronic payment of taxes may add a
36 fee to each ~~credit card~~ electronic payment transaction to offset the service charge the
37 taxing unit pays for ~~credit card~~ electronic payment service. A tax collector who accepts a
38 ~~credit card~~ electronic payment or check in payment of taxes may issue the tax receipt
39 immediately or withhold the receipt until the check has been collected or the ~~credit card~~
40 electronic payment invoice has been honored by the issuer.

41 If a tax collector accepts a check or a ~~credit card~~ an electronic payment and issues a tax
42 receipt and the check is returned unpaid (without negligence on the part of the tax
43 collector in presenting the check for payment) or the ~~credit card~~ electronic payment

1 invoice is not honored by the issuer, the taxes for which the check or ~~credit card~~ electronic
2 payment was given shall be deemed unpaid; the tax collector shall immediately correct
3 the copy of the tax receipt and other appropriate records to show the fact of nonpayment,
4 and shall give written notice by certified or registered mail to the person to whom the tax
5 receipt was issued to return it to the tax collector. After correcting the records to show
6 the fact of nonpayment, the tax collector shall proceed to collect the taxes by the use of
7 any remedies allowed for the collection of taxes or by bringing a civil action on the check
8 or ~~credit card~~ electronic payment.

9 A financial institution with which a taxing unit has contracted for receipt of payment
10 of taxes may accept a check in payment of taxes. If the check is honored, the financial
11 institution shall so notify the tax collector, who shall, upon request of the taxpayer, issue
12 a receipt for payment of the taxes. If the check is returned unpaid, the financial
13 institution shall so notify the tax collector, who shall proceed to collect the taxes by use
14 of any remedy allowed for collection of taxes or by bringing a civil action on the check.

15 (1) Effect on Tax Lien. – If the tax collector accepts a check or ~~credit~~
16 ~~card~~ electronic payment in payment of taxes on real property and
17 issues the receipt, and the check is later returned unpaid or the ~~credit~~
18 ~~card~~ electronic payment invoice is not honored by the issuer, the
19 taxing unit's lien for taxes on the real property shall be inferior to the
20 rights of purchasers for value and of persons acquiring liens of
21 record for value if the purchasers or lienholders acquire their rights
22 in good faith and without actual knowledge that the check has not
23 been collected or the ~~credit card~~ electronic payment invoice has not
24 been honored, after examination of the copy of the tax receipt in the
25 tax collector's office during the time that record showed the taxes as
26 paid or after examination of the official receipt issued to the taxpayer
27 prior to the date on which the tax collector notified the taxpayer to
28 return the receipt.

29 (2) Penalty. – In addition to interest for nonpayment of taxes provided
30 by G.S. 105-360 and in addition to any criminal penalties provided
31 by law for the giving of worthless checks, the penalty for giving in
32 payment of taxes a check that is returned because of insufficient
33 funds or nonexistence of an account of the drawer is ten percent
34 (10%) of the amount of the check, subject to a minimum of one
35 dollar (\$1.00) and a maximum of one thousand dollars (\$1,000).
36 This penalty does not apply if the tax collector finds that, when the
37 check was presented for payment, the drawer of the check had
38 sufficient funds in an account at a financial institution in this State to
39 pay the check and, by inadvertance, the drawer of the check failed to
40 draw the check on the account that had sufficient funds. This
41 penalty shall be added to and collected in the same manner as the
42 taxes for which the check was given."

43 Section 7. G.S. 132-1.2 reads as rewritten:

1 **"§ 132-1.2. Confidential information.**

2 (a) Nothing in this ~~Article~~ Chapter shall be construed to require or authorize a
3 public agency or its subdivision to disclose any information ~~which~~ that:

4 (1) Meets all of the following conditions:

5 ~~(1)a.~~ Constitutes a "trade secret" as defined in ~~G.S. 66-152(3);~~
6 G.S. 66-152(3).

7 ~~(2)b.~~ Is the property of a private "person" as defined in ~~G.S.~~
8 ~~66-152(2);~~ G.S. 66-152(2).

9 ~~(3)c.~~ Is disclosed or furnished to the public agency in
10 connection with the owner's performance of a public
11 contract or in connection with a bid, application,
12 proposal, industrial development project, or in
13 compliance with laws, regulations, rules, or ordinances
14 of the United States, the State, or political subdivisions
15 of the ~~State;~~ and State.

16 ~~(4)d.~~ Is designated or indicated as "confidential" or as a "trade
17 secret" at the time of its initial disclosure to the public
18 agency.

19 (2) Reveals an account number for electronic payment as defined in
20 G.S. 105-228.90(b) and obtained pursuant to Articles 6A or 6B of
21 Chapter 147 of the General Statutes or G.S. 159-32.1."

22 Section 8. This act is effective when it becomes law.