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WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2000



ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4396

(By Delegate Warner)



Passed March 11, 2000

In Effect Ninety Days from Passage

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LEGISLATIVE SERVICES
DIVISION

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COMMITTEE SUBSTITUTE

FOR

H. B. 4396

(BY DELEGATE WARNER)

[Passed March 11, 2000; in effect ninety days from passage.]

AN ACT to amend and reenact sections ten-a, ten-b and ten-d, article three, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating the state purchasing card program; authorizing the auditor to promulgate rules; providing criminal penalties and requiring restitution; and authorizing the recovery of lost rebates, discounts and revenues.

Be it enacted by the Legislature of West Virginia:

That sections ten-a, ten-b and ten-d, article three, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, to read as follows:

ARTICLE 3. APPROPRIATIONS, EXPENDITURES AND DEDUCTIONS.

§12-3-10a. Purchasing card program.

- 1 Notwithstanding the provisions of section ten of this article,
- 2 payment of claims may be made through the use of the state

3 purchasing card program authorized by the provisions of this
4 section. The auditor, in cooperation with the secretary of the
5 department of administration, may establish a state purchasing
6 card program for the purpose of authorizing all spending units
7 of state government to use a purchasing card as an alternative
8 payment method when making small purchases. The purchasing
9 card program shall be conducted so that procedures and
10 controls for the procurement and payment of goods and services
11 are made more efficient. The program shall permit spending
12 units to use a purchase charge card to purchase goods and
13 services. The amount of any one purchase made with the
14 purchase charge card shall not exceed the amount contained in
15 rules proposed for legislative promulgation by the auditor in
16 accordance with the provisions of article three, chapter twenty-
17 nine-a of this code: *Provided*, That purchasing cards may not be
18 utilized for the purpose of obtaining cash advances, whether the
19 advances are made in cash or by other negotiable instrument.
20 Purchases of goods and services must be received either in
21 advance of or simultaneously with the use of a state purchasing
22 card for payment for those goods or services. The auditor, by
23 legislative rule, may eliminate the requirement for vendor
24 invoices and provide a procedure for consolidating multiple
25 vendor payments into one monthly payment to a charge card
26 vendor. Selection of a charge card vendor to provide state
27 purchase cards shall be accomplished by competitive bid. The
28 purchasing division of the department of administration shall
29 contract with the successful bidder for provision of state
30 purchase charge cards. Purchase charge cards issued under the
31 program shall be used for official state purchases only. The
32 auditor shall propose rules for legislative promulgation in
33 accordance with the provisions of article three, chapter twenty-
34 nine-a of this code to govern the implementation of the pur-
35 chase card program.

**§12-3-10b. Fraudulent or unauthorized use of purchasing card
prohibited; penalties.**

1 (a) It is unlawful for any person to use a state purchase
2 card, issued in accordance with the provisions of section ten-a
3 of this article, to make any purchase of goods or services in a
4 manner which is contrary to the provisions of section ten-a of
5 this article or the rules promulgated pursuant to that section.

6 (b) Any person who violates the provisions of this section
7 is guilty of a misdemeanor where the value, as determined
8 solely by reference to the dollar amount or amounts purchased
9 through misuse of the state purchasing card and reflected upon
10 any billing or accounts issued in conjunction with the purchase
11 card, of a single purchase or of a series of purchases occurring
12 within a two hour time period or occurring from the same
13 vendor within a twenty-four hour time period is less than one
14 thousand dollars, and, upon conviction thereof, shall be
15 confined in jail for a term not to exceed six months, or fined not
16 less than one hundred dollars nor more than five hundred
17 dollars, or both fined and imprisoned. Each misuse of the state
18 purchasing card which occurs on a different calendar day is a
19 separate offense.

20 (c) Any person who violates the provisions of this section,
21 where the value of the purchases, as determined solely by
22 reference to the dollar amount or amounts purchased through
23 misuse of the state purchasing card and reflected upon any
24 billing or accounts issued in conjunction with the purchase card,
25 of a single purchase or of a series of purchases occurring within
26 a two hour time period or occurring from the same vendor
27 within a twenty-four hour time period is more than one thou-
28 sand dollars is guilty of a felony, and, upon conviction thereof,
29 shall be confined in the penitentiary not less than one nor more
30 than five years, or fined not more than five thousand dollars, or
31 both fined and imprisoned.

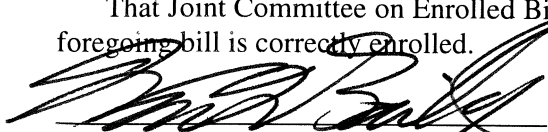
32 (d) In all cases, any person violating the provisions of this
33 section shall make restitution to the State of West Virginia for
34 the full value of all purchases, including any interest charges.

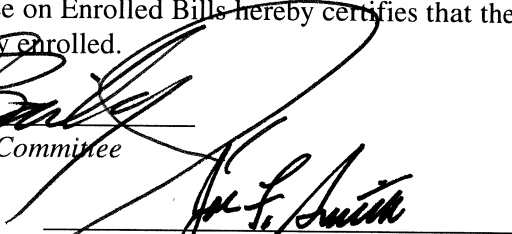
35 (e) It is unlawful for any person to use a state purchasing
36 card for expenses, including mileage, to attend a funeral.

§12-3-10d. Purchasing card fund created; expenditures.

1 All money received by the state pursuant to any agreement
2 with vendors providing purchasing charge cards, including but
3 not limited to any rebates, discounts or revenues earned for
4 prompt payment, shall be deposited in a special revenue
5 revolving fund designated the "Purchasing Card Administration
6 Fund," in the state treasury to be administered by the auditor.
7 The auditor may deduct from a state agency unclassified
8 account the amount of any purchasing card rebate, discount or
9 other revenue not earned because of late payment by the state
10 agency to the purchasing card provider and deposit the amount
11 in the Purchasing Card Administration Fund. All expenses by
12 the auditor in the implementation and operation of the purchas-
13 ing card program shall be paid from the fund. Expenditures
14 from the fund shall be made in accordance with appropriations
15 by the Legislature pursuant to the provisions of article three,
16 chapter twelve of this code and upon fulfillment of the provi-
17 sions of article two, chapter five-a of this code.

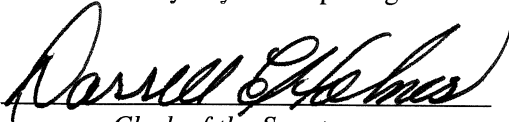
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

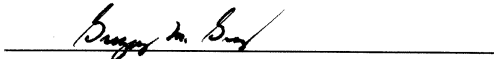

Chairman Senate Committee

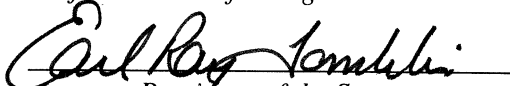

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

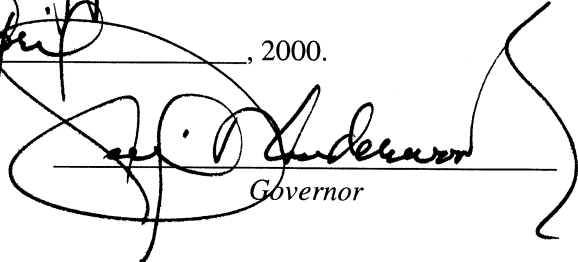

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within disapproved this the 4th
day of April, 2000.


Governor

PRESENTED TO THE

GOVERNOR

Date 3/29/00

Time 3:10 pm