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
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, payment of claims may be made through the use of the state
purchasing card program authorized by the provisions of this section. The auditor, in cooperation with the secretary of the department of administration, may establish a state purchasing card program for the purpose of authorizing all spending units of state government to use a purchasing card as an alternative payment method when making small purchases. The purchasing card program shall be conducted so that procedures and controls for the procurement and payment of goods and services are made more efficient. The program shall permit spending units to use a purchase charge card to purchase goods and services. The amount of any one purchase made with the purchase charge card shall not exceed the amount contained in rules proposed for legislative promulgation by the auditor in accordance with the provisions of article three, chapter twenty-nine-a of this code: Provided, That purchasing cards may not be utilized for the purpose of obtaining cash advances, whether the advances are made in cash or by other negotiable instrument. Purchases of goods and services must be received either in advance of or simultaneously with the use of a state purchasing card for payment for those goods or services. The auditor, by legislative rule, may eliminate the requirement for vendor invoices and provide a procedure for consolidating multiple vendor payments into one monthly payment to a charge card vendor. Selection of a charge card vendor to provide state purchase cards shall be accomplished by competitive bid. The purchasing division of the department of administration shall contract with the successful bidder for provision of state purchase charge cards. Purchase charge cards issued under the program shall be used for official state purchases only. The auditor shall propose rules for legislative promulgation in accordance with the provisions of article three, chapter twenty-nine-a of this code to govern the implementation of the purchase card program.

§12-3-10b. Fraudulent or unauthorized use of purchasing card prohibited; penalties.
(a) It is unlawful for any person to use a state purchase card, issued in accordance with the provisions of section ten-a of this article, to make any purchase of goods or services in a manner which is contrary to the provisions of section ten-a of this article or the rules promulgated pursuant to that section.

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

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

(d) In all cases, any person violating the provisions of this section shall make restitution to the State of West Virginia for the full value of all purchases, including any interest charges.
(e) It is unlawful for any person to use a state purchasing card for expenses, including mileage, to attend a funeral.

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

All money received by the state pursuant to any agreement with vendors providing purchasing charge cards, including but not limited to any rebates, discounts or revenues earned for prompt payment, shall be deposited in a special revenue revolving fund designated the “Purchasing Card Administration Fund,” in the state treasury to be administered by the auditor. The auditor may deduct from a state agency unclassified account the amount of any purchasing card rebate, discount or other revenue not earned because of late payment by the state agency to the purchasing card provider and deposit the amount in the Purchasing Card Administration Fund. All expenses by the auditor in the implementation and operation of the purchasing card program shall be paid from the fund. Expenditures from the fund shall be made in accordance with appropriations by the Legislature pursuant to the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions 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 is approved this the _4th_ day of _August_, 2000.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/4/10
Time 3:10 PM