



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB0581

Introduced 01/27/05, by Rep. Sara Feigenholtz

SYNOPSIS AS INTRODUCED:

50 ILCS 345/15
50 ILCS 345/20
50 ILCS 345/25
30 ILCS 805/8.29 new

Amends the Local Government Acceptance of Credit Cards Act. Provides that any unit of local government and any community college district that has the authority to accept the payment of funds for any purpose shall (now, is authorized, but not required to) accept payment by credit card. Makes corresponding changes. Preempts home rule. Amends the State Mandates Act to require implementation without reimbursement.

LRB094 05472 MKM 35517 b

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Local Government Acceptance of Credit Cards
5 Act is amended by changing Sections 15, 20, and 25 as follows:

6 (50 ILCS 345/15)

7 Sec. 15. Local government credit card acceptance program.

8 (a) Any unit of local government and any community college
9 district that has the authority to accept the payment of funds
10 for any purpose shall ~~is authorized, but not required, to~~
11 accept payment by credit card.

12 (b) This Act shall be broadly construed to require
13 ~~authorize, but not require,~~ acceptance of credit card payments
14 by all units of local government and community college
15 districts.

16 (c) This Act requires ~~authorizes~~ the acceptance of credit
17 card payments for all types of authorized obligations.

18 (d) This Act does not limit the authority of clerks of
19 court to accept payment by credit card pursuant to the Clerks
20 of Court Act or the Unified Code of Corrections.

21 (e) A local governmental entity may not receive and retain,
22 directly or indirectly, any convenience fee, surcharge, or
23 other fee in excess of the amount paid in connection with the
24 credit card transaction. In addition, a financial institution
25 or service provider may not pay, refund, rebate, or return,
26 directly or indirectly, to a local governmental entity for
27 final retention any portion of a surcharge, convenience fee, or
28 other fee paid in connection with a credit card transaction.

29 (f) No unit of local government, including a home rule
30 unit, may require payment of funds for any purpose in a manner
31 inconsistent with this Section. This Section is a limitation
32 under subsection (i) of Section 6 of Article VII of the

1 Illinois Constitution on the concurrent exercise by home rule
2 units of powers and functions exercised by the State.

3 (Source: P.A. 90-518, eff. 8-22-97.)

4 (50 ILCS 345/20)

5 Sec. 20. Rules; agreements; payments ~~Election by local~~
6 ~~governmental entities to accept credit cards.~~

7 (a) ~~The decision whether to accept credit card payments for~~
8 ~~any particular type of obligation shall be made by the~~
9 ~~governing body of the local governmental entity that has~~
10 ~~general discretionary authority over the manner of acceptance~~
11 ~~of payments.~~ The governing body of a local governmental entity
12 may adopt reasonable rules governing the manner of acceptance
13 of payments by credit card. ~~No decision to accept credit card~~
14 ~~payments under this Act shall be made until the governing body~~
15 ~~has determined, following a public hearing held not sooner than~~
16 ~~10 nor later than 30 days following public notice of the~~
17 ~~hearing, that the acceptance of credit card payments for the~~
18 ~~types of authorized obligations specified in the public notice~~
19 ~~is in the best interests of the citizens and governmental~~
20 ~~administration of the local governmental entity or community~~
21 ~~college and of the students and taxpayers thereof.~~

22 (b) The governing body of the entity accepting payment by
23 credit card may enter into agreements with one or more
24 financial institutions or other service providers to
25 facilitate the acceptance and processing of credit card
26 payments. Such agreements shall identify the specific services
27 to be provided, an itemized list of the fees charged, and the
28 means by which each such fee shall be paid. Such agreements may
29 include a discount fee to cover the costs of interchange,
30 assessments and authorizations, a per item processing fee for
31 the service provider, and any other fee, including a payment of
32 a surcharge or convenience fee, that may be applicable to
33 specific circumstances. Any agreement for acceptance of
34 payments by credit cards may be canceled by the governmental
35 entity upon giving reasonable notice of intent to cancel.

1 (c) An entity accepting payments by credit card may pay
2 amounts due a financial institution or other service provider
3 by (i) paying the financial institution or other service
4 provider upon presentation of an invoice or (ii) allowing the
5 financial institution or other service provider to withhold the
6 amount of the fees from the credit card payment. A discount or
7 processing fee may be authorized whenever the governing body of
8 the entity determines that any reduction of revenue resulting
9 from the discount or processing fee will be in the best
10 interest of the entity. Items that may be considered in making
11 a determination to authorize the payment of fees or the
12 acceptance of a discount include, but are not limited to,
13 improved governmental cash flows, reduction of governmental
14 overhead, improved governmental financial security, a
15 combination of these items, and the benefit of increased public
16 convenience. No payment to or withheld by a financial
17 institution or other service provider may exceed the amounts
18 authorized under subsection (b) of Section 25.

19 (d) Unless specifically prohibited by an ordinance or rule
20 adopted by the governing body of the local governmental entity,
21 a person may pay multiple tax bills in a single transaction.

22 (Source: P.A. 90-518, eff. 8-22-97.)

23 (50 ILCS 345/25)

24 Sec. 25. Payment of fees by cardholders.

25 (a) The governing body of a local governmental entity
26 ~~authorizing acceptance of payment by credit card~~ may, but is
27 not required to, impose a convenience fee or surcharge upon a
28 cardholder making payment by credit card in an amount to wholly
29 or partially offset, but in no event exceed, the amount of any
30 discount or processing fee incurred by the local governmental
31 entity. This convenience fee or surcharge may be applied only
32 when allowed under the operating rules and regulations of the
33 credit card involved. When a cardholder elects to make a
34 payment by credit card to a local governmental entity and a
35 convenience fee or surcharge is imposed, the payment of the

1 convenience fee or surcharge shall be deemed voluntary by the
2 person and shall not be refundable.

3 (b) No fee, or accumulation of fees, that exceeds the
4 lesser of \$20 or 5% of the principal amount charged may be
5 imposed in connection with the issuance of any license,
6 sticker, or permit, or with respect to any other similar
7 transaction. No fee, or accumulation of fees, that exceeds the
8 lesser of \$5 or 5% of the transaction involved may be imposed
9 in connection with the payment of any fine. No fee, or
10 accumulation of fees, in excess of the lesser of \$40 or 3% of
11 the principal amount charged may be imposed in connection with
12 the payment of any real estate or other tax.

13 (c) Notwithstanding the provisions of subsection (b), a
14 minimum fee of \$1 may be imposed with respect to any
15 transaction.

16 Notwithstanding the provisions of subsection (b), a fee in
17 excess of the limits in subsection (b) may be imposed by a
18 local governmental entity on a transaction if (i) the fee
19 imposed by the local governmental entity is no greater than a
20 fee charged by the financial institution or service provider
21 accepting and processing credit card payments on behalf of the
22 local governmental entity; (ii) the financial institution or
23 service provider accepting and processing the credit card
24 payments was selected by competitive bid and, when applicable,
25 in accordance with the provisions of the Illinois Procurement
26 Code; and (iii) the local governmental entity fully discloses
27 the amount of the fee to the cardholder.

28 (Source: P.A. 92-114, eff. 1-1-02.)

29 Section 90. The State Mandates Act is amended by adding
30 Section 8.29 as follows:

31 (30 ILCS 805/8.29 new)

32 Sec. 8.29. Exempt mandate. Notwithstanding Sections 6 and 8
33 of this Act, no reimbursement by the State is required for the
34 implementation of any mandate created by this amendatory Act of

1 the 94th General Assembly.