

## Enacted House Bill 312 Pertaining to Use of Credit Cards by Governmental Entities Requires Action by February 2, 2019

Recent legislation by the General Assembly implements restrictions, obligations and criminal penalties regarding use of credit card accounts held by a wide array of governmental entities, ranging from municipalities and townships to school districts, regional water and sewer districts, park districts and libraries.

House Bill (H.B.) 312 requires the legislative authority or governing board of certain governmental entities that hold credit card accounts to adopt a written policy that addresses the following with regard to such accounts:

- The officers or positions authorized to use credit card accounts
- The types of expenses for which a credit card account may be used
- The procedure for acquisition, use and management of a credit card account and presentation instruments related to the account, including cards and checks
- The procedure for submitting itemized receipts to the treasurer or chief fiscal officer or the treasurer's or chief fiscal officer's designee
- The procedure for credit card issuance, credit card reissuance, credit card cancellation and the process for reporting lost or stolen credit cards
- The entity's credit card account's maximum credit limit or limits
- The actions or omissions by an officer or employee that qualify as misuse of a credit card account

"Credit card account" is defined as any bank-issued credit card account, store-issued credit card account, financial institution-issued credit card account, financial depository-issued credit card account, affinity credit card account or any other card account allowing the holder to purchase goods or services on credit or to transact with the account, and any debit or gift card account related to the receipt of grant moneys. However, "credit card account" does **not** include a procurement card account, gasoline or telephone credit card account, or any other card account where merchant category codes are in place as a system of control for use of the card account.

Governmental entities that currently hold a credit card account must adopt the required policy by February 2, 2019. Otherwise, the policy must be adopted prior to first holding a credit card account.

If the applicable treasurer or fiscal officer (or other official specified in the statute) of the governmental entity **retains** "general possession and control" of the credit card, and the legislative authority or governing board authorizes other officers or employees to use a credit card, the treasurer/chief fiscal officer may use a system to sign out credit cards to the authorized users. If the treasurer/chief fiscal officer does **not retain** "general possession and control" of the credit cards, a compliance officer must be appointed to review, at least once every six months, the number of credit cards issued along with other details pertaining to the accounts. The new law expressly identifies the person or authority who appoints the compliance officer on behalf of the specific governmental entity as well as the persons who are precluded from serving as the compliance officer.

Generally, the compliance officer may not use the entity's credit card accounts and may not authorize another officer or employee to do so. An exception to the foregoing is that a superintendent of a school district appointed as a compliance officer may use the district's credit card accounts, provided, however, that the district's treasurer is required to review the credit card account transaction detail monthly and **sign an attestation** that the review was conducted.

H.B. 312 also requires that the name of the governmental entity appear on the credit card or other presentation instruments for the account, such as checks. The treasurer or chief fiscal officer of the governmental entity must annually file a report with the legislative authority or governing board detailing all rewards the entity receives as a result of use of the credit card account (such as cash rewards, redeemable reward points, and airline miles rewards).

Importantly, if an officer or employee using the credit card does not provide itemized receipts in accordance with the policy adopted by the legislative authority or governing board, he/she is liable **personally** and upon any official bond to reimburse the treasury for such un-itemized amounts.

Further, under H.B. 312, an officer or employee who knowingly incurs expenses on a credit card account beyond those authorized by the adopted policy may be criminally liable for misuse of a credit card, a first degree misdemeanor.

Governmental entities should review the sections of the Revised Code enacted and amended by H.B. 312 that are specifically applicable to that entity and should adopt a policy, or amend any current policy, related to credit card accounts in order to come into compliance with the new law by February 2, 2019.

For additional details on the provisions of the statutes enacted by H.B. 312, as they relate to specific types of governmental entities, please see the following Revised Code sections:

- R.C. 9.21 – political subdivisions of the state, generally
- R.C. 505.64 – townships
- R.C. 511.234 – township park districts
- R.C. 717.31 – municipal corporations
- R.C. 940.11 – soil and water conservation districts
- R.C. 1545.072 – park districts
- R.C. 1711.131 – county agricultural societies and independent agricultural societies
- R.C. 3313.311 – school districts, educational services centers, and information technology centers
- R.C. 3314.52 – community schools
- R.C. 3326.52 – STEM schools
- R.C. 3328.52 – college-preparatory board schools
- R.C. 3375.392 – libraries
- R.C. 6119.60 – regional water and sewer districts

For more information about the new statutory requirements under H.B. 312, please contact the firm lawyer with whom you typically work or one of the contacts listed below.

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