

The House Committee on Judiciary Non-civil offers the following substitute to HB 1113:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 1 of Article 3 of Chapter 5 of Title 50 of the Official Code of Georgia  
2 Annotated, relating to general authority, duties, and procedure with regard to state  
3 purchasing, so as to provide definitions; to provide for the requirements of a state purchasing  
4 card program; to provide penalties for violators; to authorize the promulgation of rules and  
5 regulations; to provide for related matters; to provide for effective dates and applicability;  
6 to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Part 1 of Article 3 of Chapter 5 of Title 50 of the Official Code of Georgia Annotated,  
10 relating to general authority, duties, and procedure with regard to state purchasing, is  
11 amended by adding a new Code section to read as follows:

12 "50-5-83.

13 (a) As used in this Code section, the term:

14 (1) 'Department' means the Department of Administrative Services.

15 (2) 'Purchasing card' means a credit or debit card issued by a credit card company, bank,  
16 or other financial institution and provided by the State of Georgia or any of its  
17 departments or agencies under the State of Georgia Purchasing Card Program to state  
18 employees for the purpose of making purchases on behalf of such departments or  
19 agencies or the state.

20 (b) Any purchasing card program established by the department or by any other  
21 department or agency of the state shall conform to the following requirements:

22 (1) Purchasing cards shall only be issued to state employees whose job duties require the  
23 use of a purchasing card;

24 (2) Each department or agency of the state that allows the use of purchasing cards by its  
25 employees shall develop policies and procedures consistent with guidelines developed

1 by the department pursuant to this Code section to identify those job positions within  
2 each department or agency of the state that would require the use of a purchasing card;

3 (3) Each employee receiving a purchasing card shall be required to sign an ethical  
4 behavior agreement for the use of the card which shall be developed by the department;

5 (4) Each department or agency of the state that allows its employees to use purchasing  
6 cards shall provide for the review of all purchases on such cards, shall maintain receipts  
7 for each purchase, and shall maintain a log showing each purchase, the relevant vendor's  
8 name, the item purchased, the date of the purchase, the amount of the purchase, the name  
9 of the employee making the purchase, and any other information that shall be specified  
10 by the department;

11 (5) Purchases made on purchasing cards shall be reviewed and approved by supervisory  
12 personnel at least quarterly;

13 (6) Purchasing cards shall not be used for items over \$5,000.00 unless the item is:

14 (A) Purchased pursuant to a valid state contract; and  
15 (B) Purchased in compliance with state procurement policy;

16 (7) Purchasing cards shall not be used to purchase gift cards;

17 (8) Any rebates or refunds from vendors, banks, or other financial institutions for  
18 purchases or the use of purchasing cards shall be the property of the state and shall be  
19 paid promptly into the state treasury;

20 (9) To the extent possible, purchasing cards should be used that do not allow the user to  
21 purchase gift cards, alcoholic beverages, tobacco products, or personal items that are not  
22 job related and state contracts for purchasing cards should contain such prohibitions on  
23 the use of such purchasing cards;

24 (10) The department shall develop a training manual on the use of purchasing cards  
25 which shall instruct users of purchasing cards on the maximum value utilization of such  
26 purchasing cards and employees who use such purchasing cards shall comply with the  
27 provisions of such manual;

28 (11) Departments and agencies of the state shall review not less than annually all  
29 purchasing cards issued to their employees and shall eliminate purchasing cards for  
30 employees who demonstrate consistently low usage of such purchasing cards;

31 (12) Departments and agencies of the state which have more than 100 purchasing cards  
32 issued to employees shall establish goals to reduce such number of purchasing cards by  
33 at least 10 percent by December 31, 2009;

34 (13) Employees hired for job positions for which purchasing cards are issued shall be  
35 subjected to criminal background checks before hiring and a credit check shall be  
36 completed by the hiring department or agency on all employees to whom a purchasing  
37 card is issued prior to issue;

1 (14) Purchasing cards shall be issued only to employees of departments and agencies of  
2 the state and no purchasing cards shall be issued to employees of foundations associated  
3 with departments and agencies of the state;

4 (15) Each purchase made with a purchasing card shall be accompanied by a receipt or  
5 other documentation listing each item purchased, the purchase price for each item, and  
6 any taxes, fees, or other amounts paid in connection with such purchase; and

7 (16) With respect to any purchase made with a purchasing card, if the employee to whom  
8 such card was issued does not provide documentation meeting the requirements of  
9 paragraph (15) of this subsection to his or her supervisor for recording on the purchasing  
10 log required to be maintained as provided in paragraph (4) of this subsection, such  
11 employee shall be personally responsible for such purchase.

12 (c) Any employee of a department or agency of the state who knowingly:

13 (1) Uses a purchasing card for personal gain;

14 (2) Purchases items on such purchasing card that are not authorized for purchase by such  
15 employee;

16 (3) Purchases items in violation of this Code section; or

17 (4) Retains for such employee's personal use a rebate or refund from a vendor, bank, or  
18 other financial institution for a purchase or the use of a purchasing card

19 shall be subject to immediate termination of employment, restitution for the amount of the  
20 improper purchases, and criminal prosecution. Any person violating this subsection shall  
21 be guilty of a misdemeanor of a high and aggravated nature if the value of the items  
22 improperly purchased or retained is less than \$500.00 in the aggregate and shall be guilty  
23 of a felony if the value of the items improperly purchased or retained is \$500.00 or more  
24 in the aggregate and, upon conviction of such felony, shall be sentenced to not less than  
25 one nor more than 20 years imprisonment, a fine not to exceed \$50,000.00, or both.

26 (d) An employee's supervisor who knowingly intentionally, willfully, wantonly, or  
27 recklessly allows or who conspires with an employee who is issued a purchasing card to  
28 violate subsection (c) of this Code section shall be subject to immediate termination of  
29 employment and criminal prosecution. Any person violating this subsection shall be guilty  
30 of a misdemeanor of a high and aggravated nature if the value of the items improperly  
31 purchased or retained is less than \$500.00 in the aggregate and shall be guilty of a felony  
32 if the value of the items improperly purchased or retained is \$500.00 or more in the  
33 aggregate and, upon conviction of such felony, shall be sentenced to not less than one nor  
34 more than 20 years imprisonment, a fine not to exceed \$50,000.00, or both.

35 (e) The department is authorized to promulgate such rules and regulations as necessary to  
36 implement this Code section."

