

House Bill 290 (AS PASSED HOUSE AND SENATE)

By: Representatives Cheokas of the 134th, Davis of the 109th, Maddox of the 127th, Harrell of the 106th, Sims of the 169th, and others

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 relative to state purchasing,
 3 so as to correct an oversight in provisions protecting against fraudulent use of state
 4 purchasing cards as discovered and recommended by the House Committee on Information
 5 and Audits and to apply such fraud protection provisions to all state entities including state
 6 authorities; to provide for related matters; to provide for an effective date and applicability;
 7 to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Part 1 of Article 3 of Chapter 5 of Title 50 of the Official Code of Georgia Annotated,
 11 relating to general authority, duties, and procedure relative to state purchasing, is amended
 12 by revising Code Section 50-5-83, relating to definitions and requirements for the state
 13 purchasing card program, as follows:

14 "50-5-83.

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

16 (1) 'Agency' or 'agencies' means any entity of this state, including any department,
 17 agency, division, council, bureau, board, commission, public corporation, or authority;
 18 provided, however, that such term shall not mean a political subdivision of this state.

19 (2) 'Department' means the Department of Administrative Services.

20 (2)(3) 'Purchasing card' means a credit or debit card issued by a credit card company,
 21 bank, or other financial institution and provided by the State of Georgia or any of its
 22 ~~departments or~~ agencies under the State of Georgia Purchasing Card Program to state
 23 employees for the purpose of making purchases on behalf of such ~~departments or~~
 24 agencies or the state.

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

- 27 (1) Purchasing cards shall only be issued to state employees whose job duties require the
28 use of a purchasing card;
- 29 (2) Each ~~department or agency of the state~~ that allows the use of purchasing cards by its
30 employees shall develop policies and procedures consistent with guidelines developed
31 by the department pursuant to this Code section to identify those job positions within
32 each ~~department or agency of the state~~ that would require the use of a purchasing card;
- 33 (3) Each employee receiving a purchasing card shall be required to sign an ethical
34 behavior agreement for the use of the card which shall be developed by the department;
- 35 (4) Each ~~department or agency of the state~~ that allows its employees to use purchasing
36 cards shall provide for the review of all purchases on such cards, shall maintain receipts
37 for each purchase, and shall maintain a log showing each purchase, the relevant vendor's
38 name, the item purchased, the date of the purchase, the amount of the purchase, the name
39 of the employee making the purchase, and any other information that shall be specified
40 by the department;
- 41 (5) Purchases made on purchasing cards shall be reviewed and approved by supervisory
42 personnel at least quarterly;
- 43 (6) Purchasing cards shall not be used for items over \$5,000.00 unless the item is:
- 44 (A) Purchased pursuant to a valid state contract; and
45 (B) Purchased in compliance with state procurement policy;
- 46 (7) Purchasing cards shall not be used to purchase gift cards;
- 47 (8) Purchasing cards shall not be used to purchase alcoholic beverages, tobacco products,
48 or personal items that are not job related, and state contracts for purchasing cards shall
49 contain such prohibitions on the use of such purchasing cards;
- 50 (9) The department shall develop a training manual on the use of purchasing cards which
51 shall instruct users of purchasing cards on the maximum value utilization of such
52 purchasing cards and employees who use such purchasing cards shall comply with the
53 provisions of such manual;
- 54 (10) Agencies ~~Departments and agencies of the state~~ shall review not less than annually
55 all purchasing cards issued to their employees and shall eliminate purchasing cards for
56 employees who demonstrate consistently low usage of such purchasing cards;
- 57 (11) Agencies ~~Departments and agencies of the state~~ which have more than 100
58 purchasing cards issued to employees shall establish goals to reduce such number of
59 purchasing cards ~~by at least 10 percent by December 31, 2009;~~
- 60 (12) Employees hired for job positions for which purchasing cards are issued shall be
61 subjected to criminal background checks before hiring and a credit check shall be
62 completed by the hiring ~~department or agency~~ on all employees to whom a purchasing
63 card is issued prior to issue;

64 (13) Purchasing cards shall be issued only to employees of ~~departments and agencies of~~
65 ~~the state~~ and no purchasing cards shall be issued to employees of foundations associated
66 with ~~departments and agencies of the state~~;

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

70 (15) With respect to any purchase made with a purchasing card, if the employee to whom
71 such card was issued does not provide documentation meeting the requirements of
72 paragraph (14) of this subsection to his or her supervisor for recording on the purchasing
73 log required to be maintained as provided in paragraph (4) of this subsection, such
74 employee shall be personally responsible for such purchase.

75 (c) Any employee of ~~a department or an~~ agency ~~of the state~~ who knowingly:

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

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

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

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

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

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

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

100 **SECTION 2.**

101 This Act shall become effective on July 1, 2011, and shall apply to offenses committed on
102 or after such date.

103 **SECTION 3.**

104 All laws and parts of laws in conflict with this Act are repealed.