

2015 Regular Session

HOUSE BILL NO. 638

BY REPRESENTATIVE IVEY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

STATE AGENCIES: Provides for the collection of fees associated with payments to state agencies by credit cards, debit cards, or other forms of electronic payments

1 AN ACT

2 To amend and reenact R.S. 40:1322(B)(2) and R.S. 49:316.1, relative to state agencies; to  
3 provide for fees charged by state departments, agencies, boards, and commissions  
4 on certain transactions made by credit cards, debit cards, and similar payments of  
5 obligations; to provide for electronic payments; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 40:1322 (B)(2) is hereby amended and reenacted to read as follows:

8 §1322. Credit card, charge card, and debit card transactions with the Department of  
9 Public Safety and Corrections; procedures for acceptance; administrative  
10 action

11 \* \* \*

12 B.

13 \* \* \*

14 (2) The department may charge a convenience fee on any transaction  
15 whereby a customer appears in person to conduct business with the department and  
16 requests payment by credit card, charge card, or debit card. Prior to charging the  
17 convenience fee, the total amount of the fee shall be disclosed to the customer. The  
18 customer shall have the right to decline payment of the fee and to submit payment  
19 for his transaction using another tender type. The convenience fee ~~shall be~~ may  
20 either be a uniform dollar amount or a percentage of the transaction with a minimum

1 ~~fee of one dollar and a maximum fee of one hundred fifty dollars. The percentage~~  
2 ~~rate used to calculate the fee shall be the percentage rate used by the bank to~~  
3 ~~calculate its processing fee.~~

4 \* \* \*

5 Section 2. R.S. 49:316.1 is hereby amended and reenacted to read as follows:

6 §316.1. Payments by treasury approved credit cards, ~~and~~ debit cards, and other  
7 forms of electronic payments; authorizations; contracts; fees

8 A.(1) The state, through any department, agency, board, commission, or  
9 other state entity hereinafter referred to as "state entity" may accept payment of any  
10 obligation such state entity is authorized to collect, including, but not limited to,  
11 taxes, fees, charges, licenses, service fees or charges, fines, penalties, interest,  
12 sanctions, stamps, surcharges, assessments, obligations, and any other similar  
13 charges or obligations to any state entity hereinafter referred to collectively as "state  
14 charges" by credit cards, debit cards, ~~or similar payment devices~~ and any other forms  
15 of electronic payments approved by the treasurer as provided in this Section.

16 (2)(a) The state treasurer shall establish a fee for approved payment of  
17 transactions authorized by this Section for each card ~~or device~~ and any other forms  
18 of electronic payment and for each method of conducting transactions to be accepted.  
19 The fee shall be established as uniformly as possible. When accepting such cards or  
20 ~~devices~~ any other forms of electronic payments as authorized by this Section, any  
21 state entity ~~shall~~ may assess a fee, if such fee has been established and in the amount  
22 established by the treasurer pursuant to this Section, provided that the fee is a  
23 uniform dollar amount or percentage assessed for each card ~~or device~~ and any other  
24 forms of electronic payment and for each method of conducting transactions to be  
25 accepted by the state entity, and such fee shall be considered a "state charge" as  
26 provided in this Section. The provisions of this Paragraph shall not be applicable to  
27 public postsecondary institutions of higher education or to transactions administered  
28 by a third-party processor for the Department of Revenue, the Department of  
29 Insurance, the Department of Transportation and Development, the Department of

1 ~~Public Safety and Corrections, the Department of Wildlife and Fisheries, or the~~  
2 ~~Department of Environmental Quality~~ solution.

3 (b) Notwithstanding the provisions of Subparagraph (2)(a) of this Subsection  
4 and Subsection C of this Section, each public postsecondary institution of higher  
5 education may assess a fee, for each card ~~or device~~ and any other forms of electronic  
6 payment, and for each method of conducting transactions, to be accepted for  
7 approved payment of transactions authorized by this Section. The amount of any  
8 such fee shall be as determined by the respective public postsecondary institution of  
9 higher education and shall be considered a "state charge" as provided in this Section.  
10 Each public postsecondary institution of higher education may negotiate and enter  
11 into contracts, for periods not to exceed five years, for provision of, and activities  
12 related to, the use of such cards ~~or devices~~ and any other forms of electronic  
13 payments. Contracts may be made with financial providers, third-party processors,  
14 or providers for Internet and other similar use and payment acceptance with respect  
15 to such cards ~~or devices~~ and any other forms of electronic payments.

16 (c) Notwithstanding the provisions of Subparagraphs (a) and (b) of this  
17 Paragraph, the fee charged by a third-party ~~processor~~ solution for ~~the Department of~~  
18 ~~Revenue, the Department of Insurance, the Department of Transportation and~~  
19 ~~Development, the Department of Public Safety and Corrections, the Department of~~  
20 ~~Wildlife and Fisheries, or the Department of Environmental Quality~~ any state entity  
21 shall be a convenience fee paid directly to the private entity third-party ~~processor~~  
22 solution by the payor and shall not be considered a "state charge" as provided in this  
23 Section. However, the amount of the convenience fee shall be approved by the  
24 Senate Committee on Revenue and Fiscal Affairs and the House Committee on Ways  
25 and Means. In addition, the amount of the convenience fee shall be disclosed to the  
26 payor before the transaction is completed, and the payor shall be given the option of  
27 canceling the transaction at that time.

1           (3) For the purpose of this Section, third-party solution shall mean a company  
2           that provides software and a way to capture credit card and any other forms of  
3           electronic payments for processing by a merchant services acquirer.

4           ~~(3)~~ (4) The authorization and use of credit and debit cards and ~~similar~~  
5           ~~payment devices~~ any other forms of electronic payments to make or accept payment  
6           for any government charge or required payment shall be in accordance with the  
7           provisions of this Section, and any rules, regulations, contracts, agreements, or  
8           policies promulgated or entered into pursuant to this Section.

9           B. When a state entity accepts payment of any state charge by any card or  
10          ~~device~~ other forms of electronic payment, the liability therefor is not finally  
11          discharged and obligation for payment of such state charge is not extinguished until  
12          the state entity has received final settlement, payment, or other credit in full for the  
13          state charge and any additional permissible fees associated with the transaction.  
14          Upon receipt of the final settlement, payment, or other credit, the state charge shall  
15          be deemed paid on the date the credit or debit charge was initially made.

16          C. The treasurer shall designate any credit cards, debit cards, or ~~similar~~  
17          ~~payment devices~~ other forms of electronic payments that state entities may accept  
18          to receive payment of any state charges, and shall from time to time, but at least  
19          annually, publish a list of approved credit and debit cards by which any state entity  
20          will be authorized to accept payment of any charge or payment the state entity is  
21          authorized to collect. Any state entity may recommend that the treasurer consider  
22          a specific credit or debit card for approval. Except as provided in Subparagraph  
23          (A)(2)(b) of this Section, he shall have authority to negotiate and enter into all  
24          contracts, for periods not to exceed five years, with providers of such cards or  
25          ~~devices~~ other forms of electronic payments, including ~~master or statewide financial~~  
26          ~~providers~~ merchant service acquirers, third-party ~~processors~~ solutions, or providers  
27          for Internet and other similar use and payment acceptance using such cards or  
28          ~~devices~~ other forms of electronic payments. In negotiating such contracts and  
29          approving designated cards ~~or devices~~ and other forms of electronic payments, the

1 treasurer shall seek to achieve uniform implementation and standard terms and  
2 provisions with respect to the acceptance of payments by state entities, in order to  
3 achieve maximum efficiency, uniformity, and cost effectiveness. Any contracts  
4 pursuant to this Section may include such provisions, terms, and conditions as the  
5 treasurer shall deem necessary or appropriate to fulfill those purposes, including  
6 specific terms applicable to any particular state entity, such as any limitations on  
7 amounts and limits of liabilities eligible for payment, operational requirements,  
8 types, terms, and payment of fees.

9 D. The treasurer shall by rule establish procedures and guidelines for the  
10 approval and operation of any cards ~~or devices~~ and other forms of electronic  
11 payments, and fix applicable processing fees, pursuant to this Section.

12 E. The authorizations for and use of any cards ~~or devices~~ and other forms of  
13 electronic payments by any state department, agency, board, commission, or other  
14 state entity, to accept payment for any state charges, shall be pursuant to and in  
15 accordance with this Section, notwithstanding any other provisions of law.

16 F. Any contracts or other binding arrangements for acceptance of credit or  
17 debit cards or ~~any other devices~~ other forms of electronic payments, in existence on  
18 August 15, 1999, shall not be affected by this Section and shall be honored according  
19 to their terms.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 638 Original

2015 Regular Session

Ivey

**Abstract:** Provides relative to the collection of fees associated with payments to state agencies made by a customer thorough credit cards, debit cards, or other forms of electronic payments.

Present law authorizes state agencies to accept credit cards, debit cards, and similar payment devices approved by the treasurer and provides for the treasurer to establish fees for such transactions (R.S. 49:316.1). Further provides for a separate authorization for the Dept. of Public Safety and Corrections, public safety services to accept similar payments (R.S. 40:1322).

Present law (R.S. 40:1322) authorizes the collection of convenience fees on credit card transactions authorized for the Dept. of Public Safety and Corrections including a \$1 fee for transactions through a telephone or Internet and a fee on transactions where the customer appears in person with a minimum charge of \$1 and a maximum charge of \$150 allowed. Present law further provides that the percentage rate used to calculate the fee on in-person transactions is the percentage rate used by the bank to calculate its processing fee.

Proposed law changes the provisions regarding the amount of the convenience fee from a required minimum and maximum allowed amount to a fee that may either be a uniform dollar amount or a percentage of the transaction.

Present law (R.S. 49:316.1) requires agencies that accept credit card payments to assess certain fees, as established by the treasurer, when accepting payment as authorized in present law. Proposed law removes requirement to assess such fee and provides that the assessment of the fee is permissive.

Proposed law changes one of the payment methods authorized to be accepted from "similar payment devices" to "other forms of electronic payments" to broaden the forms of payment that can be accepted by state agencies.

Present law allows certain agencies to use a third-party processor to collect a convenience fee on payments authorized in present law. Further, the amount of the convenience fee shall be approved by the Senate Committee on Revenue and Fiscal Affairs and The House Committee on Ways and Means. The agencies permitted in present law to use the third-party processor are the following:

- (1) Department of Revenue.
- (2) Department of Insurance Department of Transportation and Development.
- (3) Department of Public Safety and Corrections.
- (4) Department of Wildlife and Fisheries.
- (5) Department of Environmental Quality.

Proposed law changes the term of the third-party that is authorized in present law from "third-party processor" to "third-party solution" and further defines third-party solution.

Proposed law changes the agencies allowed to use a third-party solution to collect a convenience fee from those agencies specifically authorized in present law to any state entity.

(Amends R.S. 40:1322(B)(2) and R.S. 49:316.1)