



**House
Legislative
Analysis
Section**

Olds Plaza Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

**LOCAL UNITS: ACCEPTANCE OF
CREDIT CARDS, ETC.**

**House Bill 4818 (Substitute H-3)
First Analysis (10-26-95)**

**Sponsor: Rep. Lingg Brewer
Committee: Local Government**

THE APPARENT PROBLEM:

According to testimony before the House Local Government Committee, some local units of government accept credit cards from the public for certain kinds of payments. (Reportedly, the courts are the predominant recipient of credit card payments.) However, there is no specific statutory authorization for this practice. Representatives from various kinds of local government agencies have been conferring on how to draft legislation that would address this issue. Some people see this primarily as a consumer service issue. Credit cards, debit cards, and electronic fund transfer are in widespread use. Many people would like to use such methods to pay taxes, fees, fines, etc. Representatives of local officials believe that the decisions about whether to accept cards, what kind of payments to allow by credit card, and which cards to accept should be made by the appropriate local officials. Legislation has been drafted that requires certain procedures to be followed by local units regarding the acceptance of credit cards and similar devices but that attempts to lodge key decisions about credit card acceptance with the appropriate local officials.

THE CONTENT OF THE BILL:

The bill would create a new act authorizing local units of government to accept "financial transaction device" payments. The term refers to payments by credit card, debit card, and electronic funds transfer card. The bill would apply to villages, cities, townships, counties, county road commissions, local and intermediate school districts, community college districts, and authorities or organizations of government that can issue obligations under the Municipal Finance Act.

A local unit could not accept a financial transaction device payment more than six months after the new act took effect unless it complied with the act. A local unit could not accept such a payment if prohibited by law or charter.

Under the bill, the governing board of a local unit would first have to adopt a resolution authorizing the acceptance of financial transaction device payments. The resolution would designate the treasurer as responsible for determining which financial transaction devices would be accepted. The resolution could designate an additional officer or employee to be jointly responsible for the decision. The resolution could limit the taxes, assessments, or fees for which such payments would be accepted. (The determination of acceptable cards would have to comply with any resolution for the deposit of public money adopted under Public Act 40 of 1932, which deals with depositories for public money.)

However, notwithstanding the resolution, if an elected official's office has direct responsibility for collecting a tax, assessment, or fee, and the elected official is not a voting member of the governing body of the local unit, the elected official could determine not to accept a financial transaction device for payment of a particular tax, assessment, or fee. Before implementing such a determination, the elected official would have to notify the governing body of the local unit in writing of the taxes, assessments, or fees that could not be paid by financial transaction devices.

The new act would specify that it would not effect the authority of the judicial branch to make determinations about the acceptance of financial transaction devices for costs and fees under the jurisdiction of the judicial branch.

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that the bill has no fiscal impact. (Fiscal Note dated 10-23-95) However, some argue (including the Department of Treasury) that there could be a fiscal impact to local units if they allow payment by credit cards that require the payment of a fee by the local unit and that prevent the fee from being passed on to the card-holder.

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ARGUMENTS:

For:

The credit card is ubiquitous. Consumers are accustomed to paying for all kinds of goods and services with credit cards, debit cards, and electronic funds transfer. Some local units would like to be able to accept such methods of payment of taxes, fees, assessments, and other charges. Some are already doing so, but without statutory authority. This bill provides the specific statutory authority for this practice. It requires local units (counties, cities, villages, townships, school districts, community college districts, and others) to make the determination about whether to accept cards and, if so, which cards to accept and for what kind of payments. It requires the adoption of a resolution by the local governing body. It also permits elected officials (such as county treasurers and county clerks) with the responsibility for collecting a tax, assessment, or fee to decide independently which taxes, assessments, or fees could not be paid by credit cards and similar arrangements. It also does not interfere in the judicial branch's determination of the acceptability of paying by credit card. The bill is permissive; no unit of government need accept cards.

Against:

A key issue in permitting the acceptance of credit cards by local government is the fee that may be charged by the card issuers. If a local unit decides to accept, for example, Visa or Mastercard, there will be a fee charged to the local unit. Reportedly, fees charged for the use of those cards cannot be assessed to the card-holder. This means all the taxpayers in the community will be paying the cost of fees attributable to the use of credit cards. Representatives of the Department of Treasury and others have expressed concern about the fairness of this aspect of credit card use. Local units could decide only to accept cards that carry no fee or that allow the fee to be assessed to the card-holder, but the bill does not require this. Reportedly, fees can be from one-and-one-half percent to five percent. On large tax bills paid by credit card, the fee could be considerable. Some smaller units may not have the expertise to properly estimate the cost to them of accepting credit cards.

Response:

Other forms of payment also have their costs. Checks take time to clear, which results in a delay in investing or using money. Cash must be counted and properly taken care of, which takes staff time. And local units pay directly and indirectly for all kinds of bank services. So the credit card fee is not so exceptional an expense. If the complaint is that the acceptance of

credit cards without charging a fee to the card-holder amounts to a subsidy by other taxpayers, then other kinds of potential subsidies should also be explored and evaluated (such as the deferring of property taxes owed by senior citizens).

Against:

Several other issues have been raised. Representatives of cities have noted that the bill allows the treasurer of a local unit to determine which cards would be accepted. City treasurers are appointed officials unlike county treasurers and do not serve on the local governing body, unlike township treasurers. For cities, it would be more appropriate for the treasurer to make recommendations and for the final determination to be made by the elected governing body. Further, some people have questioned the need for county road commissions to be included as local units of government in the bill.

POSITIONS:

The Michigan Association of County Treasurers supports the bill. (10-25-95)

The Michigan Association of County Clerks supports the bill. (10-25-95)

The Michigan Association of Counties supports the bill. (10-25-95)

The Michigan Association of Townships supports the bill. (10-25-95)

The Michigan Municipal League supports the bill in general but wants the city treasurer's recommendation regarding which cards to accept approved by the local governing body. (10-25-95)