

CHAPTER 253
SB 191-FN – FINAL VERSION

03/12/2015 0733s
3June2015... 1899h
06/24/2015 2221EBA

2015 SESSION

15-0440
05/04

SENATE BILL ***191-FN***

AN ACT relative to use of the state's procurement card services.

SPONSORS: Sen. Stiles, Dist 24; Sen. D'Allesandro, Dist 20; Sen. Reagan, Dist 17;
Sen. Cataldo, Dist 6; Sen. Carson, Dist 14; Sen. Boutin, Dist 16; Sen. Morse,
Dist 22; Rep. L. Ober, Hills 37; Rep. F. Rice, Rock 21; Rep. Sherman, Rock 24;
Rep. Emerick, Rock 21; Rep. Ford, Graf 3

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill provides for expansion of the state's procurement card services through the department of administrative services, division of procurement and support services.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

CHAPTER 253
SB 191-FN – FINAL VERSION

03/12/2015 0733s
3June2015... 1899h
06/24/2015 2221EBA

15-0440
05/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fifteen

AN ACT relative to use of the state's procurement card services.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 253:1 Department of Administrative Services; Additional Purchasing Authority. Amend RSA
2 21-I:17-a, I to read as follows:

3 I. The director of procurement and support services may, upon written application of the
4 governing board of any agency, authorize such governing board, or one or more individuals
5 designated by such board, to purchase supplies for the agency directly from vendors by the use of
6 field purchase orders, or by the use of procurement cards issued for that purpose; provided, however,
7 that no such field purchase order or procurement card shall be used where a total expenditure of
8 more than \$500 is involved ***unless such use is otherwise allowed by law***. The form and use of
9 such field purchase orders or procurement cards shall be prescribed by rules adopted by the
10 commissioner of administrative services pursuant to RSA 541-A in consultation with the state
11 treasurer, or in the department's manual of procedures described in RSA 21-I:14, I. Rules or
12 procedures adopted by the commissioner relative to procurement cards shall include processes for
13 monitoring the use of such cards. Procurement cards shall be used only for ~~the~~ state purposes
14 ~~[permitted under this paragraph]~~. Unauthorized use of a procurement card may result in
15 disciplinary action up to and including termination of employment. Any person who knowingly uses
16 a procurement card in violation of this section shall be guilty of a misdemeanor. ***Agencies' use of***
17 ***procurement cards shall be subject to the limitations of the amounts appropriated by the***
18 ***legislature.***

19 253:2 New Paragraph; Additional Purchasing Authority; Credit Card Services. Amend RSA 21-
20 I:17 by inserting after paragraph I the following new paragraph:

21 I-a. In the case of contracts entered into by the director of procurement and support services
22 for credit card services intended to facilitate state procurement, the director may, if he or she
23 believes that to do so would be advantageous to the state:

24 (a) Include terms in such contracts that require a card issuer to make such services
25 available to the legislative or judicial branches, or to any city, town or other non-state entity which is
26 an employer as defined by RSA 100-A:1, IV, on terms that are the same as or similar to those offered
27 to the executive branch of the state; provided, however, that such use or continued use shall be

CHAPTER 253
SB 191-FN – FINAL VERSION
- Page 2 -

1 subject to the approval of the division of procurement and support services. Any procurement of
2 supplies or services by the legislative or judicial branches, or by any city, town, or other non-state
3 entity using cards secured under this subparagraph shall be made independently and distinctly from
4 the director's purchases under this chapter. Any charges, fees, or other costs associated with the use
5 of such cards shall be the responsibility of the entity which incurred them and the state shall assume
6 no responsibility for the use of cards by entities other than the state. The director shall not be
7 required to enter into any contractual or other arrangement for the use of cards by the legislative or
8 judicial branches, or any city, town, or other non-state entity which is an employer as defined by
9 RSA 100-A:1, IV, or to assume any responsibility or liability with respect to the use of such cards or
10 with respect to any procurements of supplies or services made by those entities using such cards.

11 (b) Enter into contracts which, in addition to allowing for use of credit card services by
12 the executive branch, also allow for use by the legislative or judicial branches in order to pay for their
13 purchases in a manner similar to executive branch agencies. If the legislative or judicial branches
14 elect to make such direct use of contracts secured by the division of procurement and support
15 services under this subparagraph, they shall do so according to procedures established by the
16 department of administrative services, in RSA 21-I:17-d, II and III. The use or continued use of such
17 contracts by the legislative or judicial branch shall be subject to the approval of the division of
18 procurement and support services. The director shall not be required to enter into any contractual or
19 other arrangements for the use of credit card services by the legislative or judicial branches, and may
20 also, or in the alternative, include terms in his or her contracts which allow for participation by those
21 branches on the terms set forth in subparagraph (a).

22 253:3 New Section; Use of Procurement Cards for Purchase of Commodities or Services. Amend
23 RSA 21-I by inserting after section 17-c the following new section:

24 21-I:17-d Use of Procurement Cards for Purchase of Commodities or Services.

25 I. The director of procurement and support services may, upon written application of an
26 agency, authorize the agency, or one or more individuals designated by the agency, to purchase
27 commodities or services secured by or through the division using procurement cards issued for that
28 purpose; provided, however, that no such card shall be used for an expenditure which is greater than
29 the amount allowed by the division for purchases under the applicable contract, or the price allowed
30 by the division for the commodity or service, and provided further that use of such cards shall be in
31 accordance with paragraphs II and III.

32 II. Use of a procurement card under paragraph I shall not alter any other purchasing
33 requirements which may apply to the agency or to the type of purchase at issue, including but not
34 limited to any restrictions or limitations contained in contracts entered into by the division of
35 procurement and support services and any processes, rules, or manual of procedures provisions
36 adopted by the department of administrative services which are applicable to the purchase.

CHAPTER 253
SB 191-FN – FINAL VERSION
- Page 3 -

1 Agencies' use of procurement cards shall be subject to the limitations of the amounts appropriated by
2 the legislature.

3 III. The form and use of credit cards to conduct or pay for purchases under paragraph I shall
4 be prescribed by rules adopted by the commissioner of administrative services pursuant to RSA 541-
5 A in consultation with the state treasurer, or in the department's manual of procedures described in
6 RSA 21-1:14, I. Rules or procedures adopted by the commissioner shall include processes for
7 monitoring the use of cards. Cards shall be used only for state purposes. Unauthorized use of a card
8 may result in disciplinary action up to and including termination of employment. Any person who
9 knowingly uses a card in violation of this section shall be guilty of a misdemeanor.

10 253:4 New Sections; State Credit Card Contracts. Amend RSA 9-D by inserting after section 1
11 the following new sections:

12 9-D:2 Card Rebates.

13 I. Rebates received from contracts for credit card services entered into by the division of
14 procurement and support services under RSA 21-I shall be applied in the following manner:

15 (a) Amounts which are paid to the state as rebates for its purchases shall be deposited in
16 the payment and procurement card fund established in RSA 9-D:3.

17 (b) Amounts which represent the added rebate benefit attributable to the consolidation
18 of calculations under contracts allowing for the independent participation of the legislative or judicial
19 branches, or the independent participation of non-state entities under RSA 21-I:17, I-a(a) shall be
20 paid by the card issuer directly to the branches or non-state entities which independently
21 participated in the purchases.

22 (1) Fifty percent of the amount shall be paid by the card issuer directly to the
23 branches or non-state entities which independently participated in the purchases; and

24 (2) Fifty percent of the amount shall be deposited in the payment and procurement
25 card fund established in RSA 9-D:3, which fund may pay up to this amount to the board of trustees of
26 the New Hampshire retirement system dedicated to an annual reduction in the retirement system's
27 unfunded liability determined under RSA 100-A:16, II.

28 II. Contracts for credit card services entered into by the division of procurement and support
29 services under RSA 21-I shall contain such provisions as are necessary to apply rebates, if any, in the
30 manner specified under paragraph I. Application of rebates in the foregoing manner shall not be
31 required in the case of cards:

32 (a) Intended only for the procurement of fuel;

33 (b) Entered into by the division of procurement and support services which relate to a
34 specific seller of goods or services;

35 (c) Obtained by the division under contracts specifically providing for another method of
36 handling or applying rebates; or

CHAPTER 253
SB 191-FN – FINAL VERSION
- Page 4 -

1 (d) Entered into prior to the effective date of this section.

2 9-D:3 Payment and Procurement Card Fund.

3 I. There is hereby established in the office of the state treasurer the payment and
4 procurement card fund, which shall be a revolving fund administered by the department of
5 administrative services. The fund shall be nonlapsing and continually appropriated to the
6 department of administrative services. The department of administrative services may make
7 expenditures of up to \$100,000 in anticipation of revenue which may be received by this fund.

8 II. The fund established under paragraph I may be maintained at such a level as to cover the
9 necessary costs of the administration and management of the credit, payment, or procurement card
10 programs handled by the department of administrative services, to cover other amounts which may
11 be payable under paragraph III, and to allow the accumulation of a working capital reserve which is
12 no greater than \$25,000. The department of administrative services is authorized to establish one or
13 more positions to administer and manage the procurement card program. No position shall be
14 staffed unless and until sufficient funds exist in the fund established under paragraph I to cover the
15 necessary costs of the administration and management of the program, including the funding of such
16 positions.

17 III. All funds accumulated from rebates under RSA 9-D:2, I(a) or (b)(2) shall be deposited in the
18 fund established in paragraph I. Expenditures from the fund shall be restricted to the following
19 purposes:

20 (a) Paying the necessary costs of administration and management of the credit,
21 payment, or procurement card programs handled by the department of administrative services and
22 maintaining a working capital reserve in an amount, not to exceed \$25,000, which is deemed
23 sufficient by the division of procurement and support services to cover the costs of the programs and
24 to pay amounts under subparagraph (b)(1).

25 (b) After deducting the foregoing amounts, making such payments, if any, that the
26 department of administrative services concludes are appropriately payable:

27 (1) By an entity which is part of the state to any credit, payment, or procurement
28 card issuer under contracts secured by the division of procurement and support services pursuant to
29 RSA 21-I, including but not limited to payments for purchases and payments which must be made in
30 order for the state to obtain available rebates, or to avoid incurring, or to pay, interest, penalties, or
31 other costs imposed on the state by issues of credit, payment, or procurement cards.

32 (2) To the state's general fund or any federal, highway, turnpike, or liquor fund, as a
33 share of rebates obtained on credit card contracts under RSA 9-D:2. The department of
34 administrative services shall pay any remaining rebate amounts to the general fund.

35 IV. In the event that any entity which is part of the state fails to make or authorize required
36 payments to any credit, payment, or procurement card issuer which has been secured through the

CHAPTER 253
SB 191-FN – FINAL VERSION
- Page 5 -

1 department of administrative services, regardless of whether such failure has or may result in the
2 imposition of interest, penalties or other costs, or loss of rebates, the commissioner of administrative
3 services is authorized to charge the amount owed, plus any interest, penalties, or other costs, against
4 any money appropriated to the agency to pay for the goods or services purchased; to transfer those
5 funds to the payment and procurement card fund; and to pay from that fund the amount necessary to
6 avoid or address the agency's failure.

7 V. At the end of each fiscal year, the state treasurer shall credit the payment and
8 procurement card fund with interest and any other income earned.

9 9-D:4 Limitations on Procurement of Credit Card Contracts. The department of administrative
10 services, division of procurement and support services, shall consult with the office of the state
11 treasurer before entering into contracts for credit card services intended to facilitate the process by
12 which the state conducts and pays for its purchases or transactions. Agencies shall not
13 independently enter into single agency service contracts for credit card services to pay for purchases
14 or transactions, including but not limited to purchases for commodities or services intended solely for
15 use of a single agency, without the approval of the office of the state treasurer and the department of
16 administrative services. If approved to use credit card services secured by or through the division of
17 procurement and support services, an agency shall not use other cards unless authorized to do so by
18 the division or granted a waiver under RSA 21-I:17-c.

19 253:5 New Subparagraph; Dedicated Fund. Amend RSA 6:12, I(b) by inserting after
20 subparagraph (326) the following new subparagraph:

21 (327) Moneys deposited in the payment and procurement card fund under RSA 9-D:3.

22 253:6 Effective Date. This act shall take effect 60 days after its passage.

23
24 Approved: July 13, 2015

25 Effective Date: September 11, 2015