



**Rob McKenna**  
**ATTORNEY GENERAL OF WASHINGTON**  
Administration Division  
PO Box 40100 • Olympia, WA 98504-0100 • (360) 753-6200

June 2, 2011

The Honorable Pam Roach  
State Senator, District 31  
202 Newhouse Building  
PO Box 40431  
Olympia, WA 98504

Dear Senator Roach:

By letter previously acknowledged, you asked for an informal opinion on several questions I have paraphrased into one question as follows:

**May a local government official or employee use a publically-issued credit card for personal purchases?**

**BRIEF ANSWER**

Under the Washington State Constitution and the laws of this state, including RCW 43.09.2855 and RCW 42.24.115, a local government official or employee may not use a publically-issued credit card for personal purchases, even if the person pays off the card prior to the date that the bill becomes due.

**ANALYSIS**

A review of the laws of this state, including the state constitution, supports the conclusion that the use of a publically-issued credit card by a local government official or employee for personal purchases is prohibited.<sup>1</sup>

---

<sup>1</sup> The purpose of this opinion is to assist you in your legislative capacity by providing an analysis of the applicable law so that you can determine whether further legislation on the topic may be desirable. The purpose is not to resolve a particular local dispute. See AGO 2010 No. 8 at 1-2 n.1 (discussing limitations on the scope of Attorney General's Opinions).

ATTORNEY GENERAL OF WASHINGTON

June 2, 2011

Page 2

Local governments possess only those powers given to them by the Washington State Constitution, statutes, and their local charters. *City of Tacoma v. Taxpayers of the City of Tacoma*, 108 Wn.2d 679, 743 P.2d 793 (1987); *Chemical Bank v. Washington Pub. Power Supply Sys.*, 99 Wn.2d 772, 666 P.2d 329 (1983). State law permits local governments to use credit cards only in limited circumstances. Specifically, RCW 43.09.2855 states:

- (1) Local governments, including counties, cities, towns, special purpose districts, municipal and quasi-municipal corporations, and political subdivisions, *are authorized to use credit cards for official government purchases and acquisitions.*
- (2) A local government may contract for issuance of the credit cards.
- (3) The legislative body shall adopt a system for:
  - (a) the distribution of the credit cards;
  - (b) the authorization and control of the use of credit card funds;
  - (c) the credit limits available on the credit cards;
  - (d) payment of the bills; and,
  - (e) any other rule necessary to implement or administer the system under this section.
- (4) As used in this section, "credit card" means a card or device issued under an arrangement pursuant to which the issuer gives to a card holder the privilege of obtaining credit from the issuer.
- (5) Any credit card system adopted under this section is subject to examination by the state auditor's office pursuant to chapter 43.09 RCW.
- (6) Cash advances on credit cards are prohibited.

(emphasis added). In addition, RCW 42.24.115 authorizes municipal corporations and political subdivisions to issue credit cards "to officers and employees for the purpose of covering expenses incident to authorized travel." No other purpose or use of a local government-issued credit card is authorized by statute. By authorizing local governments to issue credit cards for official government purchases and acquisitions, RCW 42.24.115 and RCW 43.09.2855 implicitly exclude other uses. *In re Detention of Williams*, 147 Wn.2d 476, 491, 55 P.3d 597 (2002) (applying the maxim of statutory construction that "to express one thing in a statute implies the exclusion of the other"). Accordingly, local governments lack statutory authority to issue credit cards to employees for personal use.

ATTORNEY GENERAL OF WASHINGTON

June 2, 2011

Page 3

Cities and counties with home-rule powers do not depend upon statutes, like RCW 43.09.2855, for authority to issue credit cards to their employees, but, even then, the use of such cards would be limited to official purposes. Home-rule cities and counties generally “may exercise powers that do not violate a constitutional provision, legislative enactment, or [their] own charter[s].” *Chemical Bank*, 99 Wn.2d at 792 (quoting *Winkenwerder v. Yakima*, 52 Wn.2d 617, 622-23, 328 P.2d 873 (1958)). As such, these jurisdictions remain subordinate to constitutional and statutory provisions. *Id.* at 793 (quoting Philip Trautman, *Legislative Control of Municipal Corporations in Washington*, 38 Wash. L. Rev. 743, 772 (1963)). The state constitution prohibits any county, city, town, or other municipal corporation from lending their credit to any individual. Wash. Const. art. VIII, § 7. Allowing an employee to charge personal expenses to a governmental credit card would likely violate this provision.<sup>2</sup>

You asked whether a cardholder could use the card for personal purchases as long as the card was paid off by the holder. With respect to this question, even if the card is paid off by the official prior to the bill becoming due, the local government would be loaning its credit for a period of time for the individual’s personal benefit. Article 8, Section 7 of the Washington State Constitution specifically prohibits such a loan.

In posing your question, you suggested the possibility that the use of a credit card issued by a local government for a private purpose might violate ethics laws. RCW 42.23 provides a “code of ethics” for municipal officers. Among its provisions, the ethics code prohibits a municipal officer from using his or her position to secure special privileges or exemptions for himself, herself, or others. RCW 42.23.070(1). Using a local government’s credit for personal purchases arguably constitutes obtaining a special privilege from the municipal officer’s position, and, thus, would violate the law.<sup>3</sup>

You also specifically asked whether a publically-issued credit card could be used for a local government official or employee’s education in any circumstance. State law authorizes local governments to use credit cards for three purposes: 1) government purchases; 2) government acquisitions; and, 3) official travel-related expenses. RCW 43.09.2855(1); RCW 42.24.115. Education that is specifically related to the employee’s position or job could constitute a legitimate government purchase if the local government had a system in place authorizing such use of the card. *See* RCW 43.09.2855(3) (requiring the local government to set

---

<sup>2</sup> An unconstitutional lending of credit is “likely” rather than assured, because a court’s analysis of the question would depend upon particular facts and circumstances beyond the scope of this opinion. *See CLEAN v. State*, 130 Wn.2d 782, 797-98, 928 P.2d 1054 (1997) (setting forth a two-pronged analysis that asks both whether an expenditure carries out a fundamental purpose of government and, if not, whether the public receives consideration for an expenditure).

<sup>3</sup> You mentioned the Ethics In Public Service Act, RCW 42.52, in this light. That Act, however, applies only to state officers and employees, i.e., those persons holding a position within a state executive, legislative, or judicial office. RCW 42.52.010(18) and (19) (defining “state officer” and “state employee”).

ATTORNEY GENERAL OF WASHINGTON

June 2, 2011

Page 4

up a system for administration of the use of credit cards). However, as indicated above, use of the credit card for nonwork related purchases, including education, is not authorized.

No court has analyzed the cited authorities with regard to the personal use of a publically-issued credit card. However, the plain language of the statutes cited above and the state constitution clearly suggests that a local officer or employee would be prohibited from using a local government-issued credit card for any nongovernment purpose.<sup>4</sup>

I hope the above information will be useful. This is an informal opinion and will not be published as an official Attorney General Opinion.

Sincerely,



CALLIE A. CASTILLO

Assistant Attorney General

360-664-9426

---

<sup>4</sup> Depending on the jurisdiction, personal use of a government credit card may also violate local law. Some local governments explicitly prohibit or restrict the personal use of an official credit card. *See, e.g.* King County Code, Title 4, ch. 4.16.075 (2009); Pierce County Code, Title 2, ch. 2.106.060(E) (2008); Bonney Lake Municipal Code, ch. 2.70.090 (2011); Sammamish Municipal Code, ch. 3.05.070 (2011).