

SUBJECT: Requiring disclosure of fees at automatic teller machines

COMMITTEE: Financial Institutions — favorable, without amendment

VOTE: 7 ayes — Averitt, Solomons, Denny, Grusendorf, Hopson, Menendez, Wise
0 nays
2 absent — Marchant, Pitts

SENATE VOTE: On final passage, March 15 — 30-0, on Local and Uncontested Calendar

WITNESSES: For — Karen Neeley and Steve Scurlock, Independent Bankers Association of Texas
Against — None

BACKGROUND: Finance Code, chapter 59, subchapter C, governs financial institutions' operation of electronic funds terminals, such as automatic teller machines (ATMs), and requires ATM operators who wish to charge a fee for use of the terminal to disclose the fee to the user at a time and in a manner that allows a user to avoid the transaction without incurring the transaction fee.

Financial institutions in Texas that operate ATMs belong to a cooperative known as PULSE. The cooperative's rules require members to disclose fees charged for use of an ATM and to enable the user to accept and continue a transaction or reject the fee and terminate the transaction.

As part of the Gramm-Leach-Bliley Act, Congress enacted the ATM Fee Reform Act of 1999, amending the Electronic Funds Transfer Act (EFTA), 15 U.S.C., sec. 1693 *et seq.* The EFTA amendments require ATM operators to give consumers notice "after the transaction is initiated and before the consumer is irrevocably committed to completing the transaction" of the amount of any fee that will be charged. The federal law also requires an ATM operator to post notice on the machine of any fees charged. No fee is allowed that is not disclosed in accordance with these rules.

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DIGEST: SB 991 would prohibit an ATM operator who is required to provide notice of fees under the federal EFTA from imposing a fee for the use of an ATM unless the operator complies with disclosure and other requirements of the federal law.

The bill also would alter the Texas statute to assign to the terms “automated teller machine operator” and “electronic fund transfer” the meanings assigned by the EFTA. It would replace the phrase “electronic fund transfer” with the phrase “electronic transfer of money” to define any transfer of money other than one originated by a paper instrument (e.g. a check).

The bill would take effect September 1, 2001, and would apply only to a transaction initiated on or after that date.