

BILL ANALYSIS

C.S.H.B. 574
By: Haggerty
Corrections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, Texas is the only state that has not implemented inmate pay telephone systems in state correctional facilities. However, deployment of inmate pay telephone service is not without precedent in Texas, given that a number of county jails and privately-run facilities under contract with the Texas Department of Criminal Justice have already successfully and safely implemented the service. Allowing inmate pay telephone service to be introduced in the Texas prison system would create a number of benefits to the State. Inmate telephone system technology has been used effectively in other jurisdictions by law enforcement personnel for investigative purposes. These systems also provide correctional personnel with a new tool for managing inmate behavior. Given that the private vendor that is awarded the contract for providing inmate services in Texas will be required to pay the Texas Department of Criminal Justice 40 percent of the gross revenues received from inmate usage, implementation of the service will create a new source of revenue for the state. Under CSHB 574, 50 percent of the state's commission from inmate telephone service will be earmarked for the nearly-insolvent Crime Victims' Compensation Fund. The remainder of state proceeds would be directed to the undedicated portion of the general revenue fund.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Department of Criminal Justice in SECTION 1 of this bill.

ANALYSIS

CSHB 574 amends Subchapter B, Chapter 495, of the Government Code by adding Section 495.025. This section directs the board to conduct a bid process and award a contract to a vendor to install, operate and maintain pay telephone service for inmates confined in facilities operated by TDCJ. This bill would require the vendor to install, operate and maintain the service without any cost to the state.

CSHB 574 lays out the technological and operational requirements that a vendor must meet to be awarded a contract. These include victim security features, including the capacity to compile inmate calling lists, the ability to verify approved numbers to be called, the ability to oversee entry of eligible inmates' personal identification (PIN) numbers; and the use of a biometric identifier of the inmate making the call.

To enhance the value of these telephone systems as a behavior management tool, CSHB 574 specifies that a vendor receiving a contract must be able to limit the duration and frequency of the call. CSHB 574 also requires the vendor to provide a fully automated system that does not require a TDCJ operator.

To capitalize on the technology's investigative benefits, CSHB 574 requires that any system implemented would be capable of providing on-site monitoring. In addition, the vendor awarded the contract would be required to be able to network all individual facility systems together to allow the same investigative monitoring from department headquarters that is available at each facility. The department would be directed to ensure that all communications are recorded and preserved for a reasonable amount of time for law enforcement and security purposes. The exception to this requirement would be for confidential attorney-client communication, which could not be monitored or recorded.

CSHB 574 requires the vendor that is awarded the contract, which is to be no less than five years, pay the department a commission of 40 percent of the gross revenues received from the use of any service provided. The department is required to transfer 50 percent of commissions paid by the vendor to the Crime Victims' Compensation Fund and the other 50 percent to the undedicated portion of the general revenue fund. In a given year, the first \$10 million collected in commissions would be transferred to the Crime Victims' Compensation Fund. CSHB 574 specifically affirms that funds received from inmate telephone usage shall not reduce any appropriation to the department.

CSHB 574 directs the department, subject to board approval, to adopt rules that would govern inmate usage but not unduly restrict calling volume. To prevent a financial hardship for inmates or their families, CSHB 574 requires that the charge for a local call cannot be greater than the highest rate for local calls by inmates in county jails. CSHB 574 also requires the implementation of a pre-pay program to help inmates and their families manage the cost of using the service.

CSHB 574 requires TDCJ to award a contract under this Section no later than January 1, 2006, if immediate effect is achieved. If this Act does not take effect immediately, TDCJ is directed to award a contract no later than March 1, 2006.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

ORIGINAL:

Adds Section 495.025. INMATE PAY TELEPHONE SERVICE. The board shall request proposals from private vendors for contracts to provide, install, operate, and maintain automated pay telephone service to inmates without any cost to the state. The board shall award one contract or several regional contracts that may not be less than 3 years. The department shall be paid 40% of gross revenue to use for departmental purposes only. Effective date: September 1, 2005.

SUBSTITUTE:

Adds and amends Section 495.025 to provide for more details regarding the technological safeguards and operational capabilities a vendor must demonstrate to be awarded a contract with the state to provide inmate pay telephone service. These include the ability to monitor and regulate inmate calls and to generate reports to department personnel concerning calling patterns. The awarded contract changed from a minimum of 3 years to a minimum of 5 years. CSHB 574 also leaves the door open for the department to establish additional requirements of a contracted vendor. The substitute elaborates on how the commissions paid to the department must be dispersed: 50% must go to the victims of crime fund established by Subchapter B, Chapter 56, Code of Criminal Procedure; the remaining 50 percent must go to the undedicated portion of the general revenue fund, with the exception being that the first \$10 million in a given year goes to the crime victims' fund. The substitute also includes provisions to protect inmates' families from a significant financial burden and directs the department to determine inmate usage criteria. Effective date was changed from September 1, 2005 to immediate efficacy upon a two-thirds vote or September 1, 2005.