

BILL ANALYSIS

C.S.H.B. 1888
By: Haggerty
Corrections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Texas is an exception among states, the vast majority of which have implemented a restricted-use pay telephone system for eligible inmates 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 (TDCJ) already have successfully and safely implemented the service.

Allowing restricted-use inmate 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 for investigative purposes, and if implemented through this bill, will create a new source of revenue for the state. These systems also provide correctional personnel with a new tool for managing inmate behavior and complement reintegration and rehabilitation goals for eligible low-risk offenders.

CSHB 1888 requires the Texas Board of Criminal Justice to request proposals from private vendors for a contract to provide pay telephone service to eligible inmates confined in facilities operated by the TDCJ. This bill also describes how the commissions shall be distributed and provides restrictions regarding the vendor contract and policies governing the use of the pay telephone service by inmates.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

CSHB 1888 amends the Government Code to require the Texas Board of Criminal Justice (board) to request proposals from private vendors for a contract to provide pay telephone service to eligible inmates confined in facilities operated by the Texas Department of Criminal Justice (the department). This bill also requires the board to award a contract to a single private vendor and provides that the initial term of the contract may not be less than seven years and must provide the board the option of renewing it for additional two-year terms.

CSHB 1888 prohibits the board from considering a proposal or awarding a contract to provide service unless under the contract the vendor complies with the following requirements. The vendor must provide for installation, operation, and maintenance of the service without any cost to the state and must pay the department a commission of not less than 40 percent of the gross revenue received from the use of any service provided. The vendor must provide a system with the capacity to: compile approved inmate call lists; verify numbers to be called by inmates, if necessary; oversee entry of personal identification numbers; use a biometric identifier of the inmate making the call; generate reports to department personnel on inmate calling patterns; network all individual facility systems together to allow the same investigative monitoring from department headquarters that is available at each facility; and use cellular telephone detection technology that is integrated with the inmate pay telephone service.

The vendor must also provide on-site monitoring of calling patterns and customize technology to provide adequate system security, provide a fully automated system that does not require a department operator, and provide for periodic review by the state auditor of documents maintained regarding billing procedures and statements, rate structures, computed commissions,

and service metering. The vendor is also required to ensure that a ratio of not greater than 30 eligible inmates per communication device is maintained at each facility, that no charge will be assessed for an uncompleted call, that the charge for local calls will not be greater than the highest rate for local calls for inmates in county jails, and that each eligible inmate or person acting on behalf of an eligible inmate may prepay for the service.

CSHB 1888 requires the department to transfer 50 percent of all commissions paid to the department by the vendor to the compensation to victims of crime fund established by Subchapter B, Chapter 56, Code of Criminal Procedure, and the other 50 percent to the credit of the undedicated portion of the general revenue fund. In any given year under a contract, the first \$10 million of the commissions collected must be transferred to the compensation to victims of crime fund established by Subchapter B, Chapter 56, Code of Criminal Procedure. Additionally, this bill clarifies that Section 495.025, Government Code, (Inmate Pay Telephone Service) does not reduce any appropriation to the department.

CSHB 1888 requires the department, subject to board approval, to adopt policies governing the use of the pay telephone service by an inmate confined in a facility operated by the department, including a policy governing the eligibility of an inmate to use the service. These policies may not unduly restrict calling patterns or volume and must allow for an average monthly call usage rate of eight calls, with each call having an average duration of not less than 10 minutes, per eligible inmate. The department shall also ensure that the inmate is allowed to communicate only with persons on a call list that is pre-approved by the department. The department must ensure that all communications are recorded and preserved for a reasonable period of time for law enforcement and security purposes, with the exception of confidential attorney-client communication, which must not be monitored or recorded by the department or anyone acting on the department's behalf. The department must provide to the vendor the name and telephone number of each attorney who represents an inmate to ensure that communication between an inmate and the attorney is not monitored or recorded. These recordings, under subsection (e), Section 495.025, Government Code, are excepted from disclosure under Chapter 552, Government Code.

CSHB 1888 requires the department to award a contract under Section 495.025, Government Code, no later than September 1, 2008.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The original bill provides that the initial term of the contract may not be less than five years. The substitute changes this to seven years. Additionally, the original bill requires that under the contract, the vendor must ensure that each eligible inmate or person acting on behalf of an inmate may prepay for the service. The substitute clarifies that the vendor must ensure that each eligible inmate or person acting on behalf of an *eligible* inmate may prepay for the service. HB 1888 requires the vendor to ensure that a ratio of not greater than 30 inmates per communication device is maintained at each facility. The substitute clarifies that the vendor must ensure that a ratio of not greater than 30 *eligible* inmates per communication device is maintained at each facility.

The original bill requires the vendor to pay the Texas Department of Criminal Justice (department) a commission of 40 percent of gross revenue received, whereas the substitute requires the vendor to pay the department a commission of *not less than* 40 percent of gross revenue received.

The original bill requires the contract to provide for automatic renewal of the contract annually until the vendor's capital expenditures are recouped and requires the board to conduct an annual review to determine the vendor's capital payback for that year. The substitute deletes this language and simply requires that the contract provide the board with the option of renewing the contract for additional two-year terms.

The original bill allows the department, subject to approval by the Texas Board of Criminal Justice (board), to adopt rules setting additional requirements for a contract awarded. The substitute deletes this language.

The original bill requires the department, subject to board approval, to adopt rules governing the use of the pay telephone service by an inmate confined in a facility operated by the department, including a rule governing the eligibility of an inmate to use the service and specifies that these rules may not unduly restrict calling patterns or volume and must allow for calling patterns to be not less than the national average call usage rate. The substitute is similar in this regard, but changes "rules" to "policies" and rather than specifying that rules must allow for calling patterns to be not less than the national average, the substitute specifies that policies must allow for an average monthly call usage rate of eight calls, with each call having an average duration of not less than 10 minutes, per eligible inmate.

The substitute also adds language not in the original bill which states that a recording under subsection (e), Section 495.025, Government Code, is exempted from disclosure under Chapter 552, Government Code.

The original bill requires the board to award a contract not later than January 1, 2008 if the Act takes effect immediately, or March 1, 2008 if the Act does not take effect immediately. The substitute simply requires the board to award a contract not later than September 1, 2008.