HB 1267

Department of Legislative Services

Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 1267 (Delegate Menes)
Judiciary

Public Safety - Correctional Institutions - Inmate Telephone Contracts and Welfare Funds

This bill prohibits an inmate telephone service contract from providing for the State or a local government to receive any commission or revenue greater than 5% of the cost of the contract. The bill prohibits the State or a local government from receiving commissions or revenue greater than 5% of the cost of the contract. Any reduction in the cost of such a contract must be reasonably reflected in the charges for inmate telephone calls.

The bill includes investment earnings from an inmate welfare fund as part of the fund. Money expended from the fund for goods and services that benefit the general inmate population in a correctional facility is supplemental to and is not intended to take the place of funding that otherwise would be appropriated for goods and services that benefit the general inmate population in the correctional facility.

The bill is effective June 1, 2006, and its provisions are required to be applied prospectively only.

Fiscal Summary

State Effect: Inmate Welfare Fund revenues and expenditures would each decrease by $3.3 million in FY 2007 and by $6.6 million annually thereafter.

(in dollars)	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
SF Revenue	($3,293,000)	($6,586,000)	($6,586,000)	($6,586,000)	($6,586,000)
SF Expenditure	(3,293,000)	(6,586,000)	(6,586,000)	(6,586,000)	(6,586,000)
Net Effect	$0	$0	$0	$0	$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local income from commissions and other revenue related to inmate telephone calls totals approximately $2.9 million statewide. This bill would, beginning in FY 2007, eliminate significant amounts of that revenue for all jurisdictions.

Small Business Effect: None.

Analysis

Current Law: The general tariff of a telecommunications carrier is required to be received, reviewed, and approved by the Public Service Commission (PSC). However, PSC is not involved in State contract negotiations with carriers, nor does it review or regulate to any extent the rates of such contracts.

Background: State agencies do not contract directly with telephone service providers. The Department of Budget and Management (DBM) is responsible for the contracts relating to the use of telephones at all State facilities, including State correctional facilities. Generally, State agencies receive commissions from the vendor and deposit these revenues into the general fund. However, the Department of Public Safety and Correctional Services (DPSCS) facilities are allowed to retain the commissions to support and direct inmate services.

In fiscal 2004 (March), DBM contracted with T-NETIX, Inc. for telephone service at State correctional facilities. Prior to that contract, there were separate contracts with Verizon for local calls and AT&T for long-distance calls.

The current contract applies only to inmate calls at State correctional facilities, and does not include, as was the case under the previous arrangement, telephone services in other State facilities. Under the new contract, the vendor (now called Securus) provides pay station equipment and local services for inmates and their families at all State correctional facilities at a commission rate to the State for local collect calls and for long-distance collect calling.

Under the contract, Securus provides State correctional facilities secure telephones with monitoring devices. In addition, because Securus was required to provide each inmate a methodology for reducing calling costs, inmates and their families may now set up a prepaid account with the vendor for reduced costs. This prepaid program is totally automated with discounted rates and allows prepayment for calls through each facility's commissary. The program requires no additional staff time, maintenance, or costs for DPSCS. The contract, including the debit/prepaid program and both local and long-distance calling, provides a commission rate of about 63% to the State. This provides about $7,186,000 annually for DPSCS.

The contract governing inmate calls from DPSCS facilities has historically been structured to be a revenue producing instrument for the agency. The funds are deposited to the Inmate Welfare Fund, a State special fund that is used by DPSCS for items benefiting the inmate population including education and vocational training, hygienic supplies for indigent inmates, salaries relating to clergy and medical staff, special recreational equipment and supplies, and support of the inmate grievance process and inmate legal support. The Inmate Welfare Fund also receives about $2 million annually from commissary activities, vending machines, and other sources.

The current Securus contract expires December 31, 2006.

State Fiscal Effect: DPSCS receives its commission from the vendor as a result of various measurements, including whether the call was prepaid, whether it was direct dialed, and whether it was within or outside of toll call zones within the State.

According to DBM, under the current contract:

- the calling rate for local calls is $.85 per call, regardless of the length of the call;
- using the debit/prepaid plan, the calling rate for a local call, regardless of length, is $.50;
- the calling rate for intra-State toll calls (in-State long distance) is $2.85 for the first minute and $.30 per minute thereafter;
- using the debit/prepaid plan, the calling rate for intra-State toll calls $.30 for the first minute and $.30 per minute thereafter;
- the calling rate for inter-State toll calls is $3.00 for the first minute and $.30 per minute thereafter; and
- using the debit/prepaid plan, the calling rate for inter-State toll calls is $.30 for the first minute and $.30 per minute thereafter.

With the current annual revenue stream to the Inmate Welfare Fund from telephone contract commissions, DPSCS funds the following operations:

Operation	Approximate Annual Cost	Personnel
Inmate Grievance Office	$630,000	6 Regular; 1 Contractual
Chaplains	$1,000,000	28
Inmate Health Services	$2,156,000 (Inmate Health Services also receives another $2.1 million in general funds)	25 Regular; 5 Contractual
Contractual Services (primarily education programs and law library)	$1,800,000	- (These operations are handled via contracts with the Maryland State Department of Education and Anne Arundel Community College)
Indigent Inmate Gratuities	$700,000	-
Total	**$6,586,000**	**59 Regular; 6 Contractual**

Under this bill, DPSCS estimates that limiting commission revenue to 5% would result in a loss of about $6.6 million annually, leaving about $600,000 per year to be deposited to the Inmate Welfare Fund. While it is unknown whether any of the employees shown above could be retained by shifting allocations of other funds within the agency, DPSCS believes this bill would generally result in the discontinuation of all these operations. DPSCS does not anticipate that general funds would be available to continue any of these operations at current or viable levels.

Depending on when a new contract with a 5% limit on commissions, and reduced charges for inmate calls could be activated after the expiration of the current contract, reductions in State Inmate Welfare Fund revenues and expenditures would begin to be felt in fiscal 2007. If a new contract reflecting this bill began on January 1, 2007, the fiscal 2007 fund revenues and expenditures would decrease by about $3.3 million.

The interest rate the State receives on its deposits rises and falls based on national interest rates. With no more than $600,000 in the fund in any year, any interest earned (assuming rates of about 3-4%) would not measurably offset losses to the fund from limiting commission earnings.

Legislative Services notes that it is conceivable that DPSCS could, with the estimated $600,000 in commission revenue under the bill, continue to fund the Inmate Grievance Office. However, departmental decisions and priorities for use of that revenue may be different.

Local Fiscal Effect: Statewide, local income from commissions and other revenue related to inmate telephone calls totals approximately $3 million. Future contracts for inmate telephone calls under this bill would significantly reduce revenue to local governments and local correctional facilities. Income from such contracts varies widely by jurisdiction, but is generally deposited to inmate welfare funds and affect commissary operations. For instance, the amounts deposited from telephone contract earnings in Garrett County are estimated at $19,500 annually, while in Prince George's County that amount is estimated to be $720,000.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Montgomery County, Prince George's County, Garrett County, Department of Public Safety and Correctional Services, Department of Legislative Services

Fiscal Note History: First Reader - March 3, 2006
mam/jr

Analysis by: Guy G. Cherry

Direct Inquiries to:
(410) 946-5510
(301) 970-5510