

**Department of Legislative Services**  
Maryland General Assembly  
2013 Session

**FISCAL AND POLICY NOTE**

Senate Bill 782 (Senator Pugh)  
Judicial Proceedings

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**Correctional Services - Inmate Telephone Services - Contracts**

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This bill makes telephone services contracts for inmates in State correctional facilities subject to Maryland's General Procurement Law. The bill requires the Department of Public Safety and Correctional Services (DPSCS) to award contracts based on competitive sealed bids to the responsible bidder with the lowest cost to the telephone user. The bill further prohibits DPSCS from accepting or receiving commissions in excess of its reasonable operating costs for establishing and administering inmate telephone system services. The bill applies prospectively to new or renewal contracts for inmate telephone services entered into on or after October 1, 2013.

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**Fiscal Summary**

**State Effect:** There is no direct fiscal impact until at least FY 2016, as the new contract does not expire until at least December 31, 2015. The award of subsequent contracts on a low-bid basis, and the prohibition against DPSCS receiving commissions under future contracts, likely results in a significant decrease in special fund revenues to DPSCS's inmate welfare funds. Any such decrease cannot be readily quantified.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Current Law/Background:** Generally, State agencies do not contract directly with telephone service providers. The Department of Budget and Management is responsible for the contracts relating to the use of telephones at all State facilities, including State correctional facilities. However, the inmate payphone contract is considered an

Information Technology procurement. As such, the procurement is handled by DPSCS via a competitive sealed proposal process, which takes into consideration both technical and financial aspects of each proposal. The selected proposal must be reviewed and approved by the Department of Information Technology and the Board of Public Works (BPW). DPSCS facilities are allowed to retain commissions to support inmate services.

The current contract is with Securus, which expires on March 31, 2013. GTL was awarded DPSCS's new contract, which was approved by BPW on December 19, 2012. DPSCS conducted a competitive sealed proposals procurement. The term of the GTL contract expires on December 31, 2015, though there are two one-year renewal options at the discretion of the State. Under the GTL contract, there is an overall rate reduction of 69.2%.

Title 10, Subtitle 5 of the Correctional Services Article authorizes the establishment of an inmate welfare fund in each State correctional facility. Each fund is a special, continuing, nonlapsing fund that may be used only for goods and services that benefit the general inmate population, as defined by regulations adopted by DPSCS. Each fund consists of profits derived from the sale of goods through the commissary operation and telephone and vending machine commissions and money received from other sources. Each fund is subject to an audit by the Office of Legislative Audits. Any investment earnings of a fund are not part of the fund. The Comptroller is required to pay out money from each fund as approved by the State budget.

Money from the State general fund may not be transferred by budget amendment or otherwise to a State correctional facility's inmate welfare fund.

The contract governing inmate calls from DPSCS facilities is structured to be a revenue-producing instrument for the agency. The funds are deposited into the inmate welfare funds and 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, support of the inmate grievance process, and inmate legal support. Inmate telephone commissions deposited into the funds totaled nearly \$5.0 million in fiscal 2012. The funds also receive about \$2.0 million annually from commissary activities, vending machines, and other sources.

**State Fiscal Effect:** Inmate telephone services are already subject to State procurement laws. As such, DPSCS conducted a competitive sealed proposal procurement in fiscal 2013, which took into consideration both the technical and financial aspects of all proposals, with GTL being awarded the new contract.

DPSCS's contract for telephone services not only includes telephone services but also includes a state-of-the-art investigatory, monitoring tool that is used by law enforcement, homeland security, and corrections officers and provides DPSCS with the ability to perform link charting, data mining, and intelligence gathering in an efficient manner. The monitoring system allows intelligence gathering that not only takes into account the inmate telephone calls, but can also span other data sources ranging from financial transactions to visitation records. This analysis of data from multiple law enforcement databases revolutionizes the approach that the State uses in gathering actionable intelligence to safeguard Maryland residents, and it substantially increases the speed with which investigators can review large amounts of data.

DPSCS advises that basing an award solely on the lowest bid does not allow the agency to evaluate a proposal's monitoring system. As such, in accordance with State regulations, DPSCS determined that an award using the competitive sealed bidding procurement (lowest bid) could not be made because the specifications could not be prepared that would permit an award on the basis of either the most favorable price or the most favorably evaluated price. Under the Code of Maryland Regulations (COMAR 21.05.01(B)): "Procurement by competitive sealed proposals is the preferred method for awarding State procurement contracts for human, social, cultural, educational services and real property leases."

A projection of the bill's future fiscal impact (after the new contract expires in December 2015 or later) cannot be readily predicted or quantified. DPSCS advises that contracts awarded under the bill are expected to significantly reduce special fund revenues deposited into the inmate welfare funds. As a result, the bill could require the elimination of or a reduction in the size of a variety of inmate programs, including education programs, library services, and entertainment such as movies, newspapers, and magazines.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 952 (Delegate Carter, *et al.*) - Judiciary.

**Information Source(s):** Department of Public Safety and Correctional Services,  
Department of Legislative Services

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