

SB 498 -2 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

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Meeting Dates: 2/6, 4/4

WHAT THE MEASURE DOES:

Requires the Department of Corrections (DOC) to write rules, and cities and counties to adopt ordinances, that prohibit correctional facilities from entering into contracts with telephone services providers that provide for payments from the telephone service provider to the department, city, county, or facility.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-2 Replaces measure. Prohibits DOC from entering into contracts with telephone services providers wherein DOC receives a fee or commission; allows DOC to enter into contracts with telephone service providers wherein the provider reimburses DOC for internal and external oversight and management costs or payment a third party provider. Limits the fee or commission that an inmate telephone service provider may provide to a local or regional correctional facility to five cents per minute or less, or other amount authorized by the public utility commission by rule for completed interstate, intrastate or international calls. Requires all fee or commission received by a local or regional correctional facility, city or county from an inmate service provider to be deposited into an Inmate Welfare Fund Account. Requires any facility, city or county that receives funds to provide a quarterly report that is publicly available. Authorizes the public utilities commission to adopt rules to carry the provisions of the measure. Requires local or regional correctional facilities, cities or counties that issue a request for proposals to procure inmate telephone services to consider call quality and weigh call quality as 35% of the final evaluation. Requires monthly reports from any inmate telephone service provider with which a local or regional correctional facility contracts. Sets per-minute rate limits for local and regional corrections facilities based on facilities with less than 350 beds, 350-1,000 beds and facilities with more than 1,000 beds. Limits the type and cost of fees an inmate telephone service provider can collect. Requires the city or county that maintains a local or regional correctional facility to establish an Inmate Welfare Fund Account to be expended only for inmate welfare including items or programs that enhance the lives of inmates. Forbids the use of the Inmate Welfare Fund for inmate meals, clothing, or medical care; staff clothing or equipment; and facility maintenance or staff salaries. Applies to contracts entered into, extended or renegotiated on or after the effective date of the act. Declares emergency; takes effect July 1, 2019.

BACKGROUND:

Correctional facilities lack the expertise or money to install and operate inmate telephone systems. For these reason correctional facilities across the country contract with private for-profit telephone companies to provide this services. Phone providers long ago began competing for customers by offering correctional facilities a commission based on the revenue earned from inmate calls. The pressure to gain business by offered better commissions has led to increases in per-minute rates for inmates.

In August 2013, the FCC capped per-minute rates at .21 cents per minute for prepaid calls, and .25 per minute for collect calls. In response, phone providers began increasing fees not shared with the correctional facility. This led to the FCC enacting caps on those fees as well. Facility phone contracts across the nation, including Oregon, were amended to reflect these FCC interim rate and fee caps. The FCC then continued to try and decrease phone rates even further, which led to a number of legal challenges. The DC Circuit Court of Appeals struck down the FCC rate

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and fee caps in 2017, leaving inmate phone services largely unregulated again. Per-minute phone rates, fees and facility commissions started to creep upwards, as phone providers again found themselves competing for business in an environment where no caps existed.

The Oregon Department of Corrections currently collects approximately \$4.6 million in commission each year from its telephone service provider contract: a flat fee of \$3 million, plus a percentage of the revenue when the calls exceed certain projections. This funding is used for purposes other than the provision of phone services—specifically, the inmate welfare fund. DOC is has recently issued a Request for Proposals for a telephone service provider and will be negotiating a new contract as part of that process.

Many Oregon jails still currently have contracts that reflect the FCC caps, and a large number of these contracts provide a facility commission of .05 cents per minute, with the phone provider retaining the remainder of the .21 or .25 per minute charge. Oregon jails have used those commissions to fund inmate welfare, paying for such things as education programs, drug and alcohol programs, exercise equipment, televisions, magazine subscriptions, and books.

Senate Bill 498 requires DOC to promulgate rules and cities and counties to adopt ordinances that prohibit correctional facilities from collecting fees or payments for telephone services provided to individuals in their custody.