

SUBJECT: Fee for DPS to destroy controlled substances seized by other agencies

COMMITTEE: Law Enforcement — favorable, without amendment

VOTE: 6 ayes — Driver, Latham, Allen, Frost, Ortiz, West

0 nays

1 absent — Vo

SENATE VOTE: On final passage, April 19 — 31-0, on Local and Uncontested Calendar

WITNESSES: No public hearing

BACKGROUND: Health and Safety Code, sec. 481.151 defines “controlled substance property” as a controlled substance, mixture containing a controlled substance, analogue, counterfeit, drug paraphernalia, chemical precursor, chemical apparatus or raw material. A “controlled substance plant” is a species from which a controlled substance can be derived.

Health and Safety Code, sec. 481.160 allows for the destruction of excess quantities of controlled substance property or plants as long as the law enforcement agency:

- keeps at least five random and representative samples;
- takes photographs that reasonably depict the total amount of property or plants seized; and
- weighs or provides an approximate weight of the property or plant seized.

DIGEST: SB 1970 would allow the Department of Public Safety (DPS) to charge a fee to any state, local, or federal agency to provide for the destruction of a drug, controlled substance, immediate precursor, chemical precursor, or other controlled substance property, including apparatus or paraphernalia, that had been seized by the other agency.

DPS could charge different fees based on various circumstances, including the volume or weight of material to be destroyed. The revenue would be

deposited in a fund outside the general revenue fund and be used only for administering this program.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

**SUPPORTERS
SAY:**

SB 1970 would provide a funding mechanism for DPS to purchase and maintain an incinerator to dispose of excess controlled substances and plants, rather than use more expensive commercial incinerators. The 13 DPS crime laboratories throughout the state typically receive more than 150,000 pounds of marijuana, as well as other bulky amounts of drugs, each year. Disposing of the marijuana and drugs that are not needed as evidence is an expensive and continuing problem for all law enforcement agencies.

Keeping the funds outside the general fund would protect the program and would not have a significant effect on the overall DPS or state budget. There would be an initial charge of almost \$1.2 million but the initial cost could be offset by fees charged to other law enforcement agencies to dispose of the excess contraband.

Allowing DPS to select where the incinerators would be placed geographically could provide significant cost savings. Nearly half of the marijuana seized in the state comes from the Rio Grande Valley, and that contraband currently is transported to Carthage in East Texas. The shipments must be escorted by two DPS troopers and two crime lab technicians, and these four are away from their regular duty stations for four days or more. Placing an incinerator closer to where drug seizures occur would be a better use of tax money and DPS resources.

Maintaining an incinerator under DPS control would help minimize security concerns about monitoring the storage or destruction of drugs and marijuana.

**OPPONENTS
SAY:**

Maintaining dedicated funds outside the general fund, even for worthy projects like a drug disposal program, is not good budget policy. SB 1970 would require a continuing financial obligation to the state.

NOTES:

The fiscal note indicates that DPS would need to acquire and operate three trench burner type incinerators in South, West and North Central Texas to

serve all areas of the state. The cost of this type of incinerator is \$206,000, and the cost of land and site improvements would be another \$200,000 per site. The total would be about \$1.2 million for fiscal 2008 to establish the program, and another \$176,705 would be required for continuing expenses, including salaries of three evidence technicians. The fiscal note projects that revenues from fees charged other law enforcement agencies would offset some of the costs.