

STORAGE NAME: h4659z.cj
DATE: August 6, 1998

****FINAL ACTION****
****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
CRIMINAL JUSTICE APPROPRIATIONS
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 4659
RELATING TO: Privately Operated Inmate Welfare Trust Fund
SPONSOR(S): Criminal Justice Appropriations
COMPANION BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) CRIMINAL JUSTICE APPROPRIATIONS YEAS 6 NAYS 0
- (2)
- (3)
- (4)
- (5)

I. FINAL ACTION STATUS:

HB 4659 passed the House on April 23, 1998; in the Senate was substituted for SB 2490 and passed on May 1, 1998. Became law without Governor's signature on May 30, 1998. Chapter Law 98-386.

II. SUMMARY:

The bill creates the Privately Operated Institutions Inmate Welfare Trust Fund within the Department of Corrections to be used to benefit inmates in private correctional facilities under contract with the Correctional Privatization Commission pursuant to chapter 944 or the department pursuant to chapter 944. It provides for receipts to be deposited into the fund and expenditures made from the fund pursuant to 942.215, F.S.

III. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Chapter 945.215, F.S. provides for an Inmate Welfare Trust Fund and specifies that net proceeds from inmate-related revenues such as telephone commissions and profit from canteen and vending machines are to be deposited into the trust fund. The chapter also provides that the trust fund be used for a variety of education, training, faith-based and other programs that benefit inmates. Although the trust fund is referenced in statute, the trust fund has not been recreated by the Legislature since passage of the 1992 Constitutional amendment that limited trust funds to a four-year life span. The trust fund, therefore, arguably does not exist. In addition, it is not clear whether these provisions apply to privately operated institutions under contract with the Correctional Privatization Commission or those under contract with the department. Currently, vendors under contract with the commission maintain inmate welfare proceeds in private accounts.

Recently, the Correctional Privatization Commission promulgated a rule that would allow for the use of inmate welfare proceeds if approved by the Commission. Questions have been raised regarding the commission's statutory authority to approve such expenditures and whether the responsibility to direct the expenditure of these funds more appropriately resides with the Legislature. The rule has not taken effect pending review by the Joint Administrative Procedures Committee.

Many of the education and training programs authorized under the existing Inmate Welfare Trust Fund provisions are currently provided in privately operated facilities pursuant to statutory and contract provisions.

B. EFFECT OF PROPOSED CHANGES:

The bill creates the Privately Operated Institutions Inmate Welfare Trust Fund within the Department of Corrections. The bill provides that the receipts into the fund and expenditures from the fund shall be as provided in Chapter 942.215, F.S. The bill provides that any balance in the fund at the end of a fiscal year shall remain in the fund and that the bill shall be terminated pursuant to Article III of the Constitution unless terminated sooner. The bill provides that the trust fund shall be reviewed prior to its scheduled termination as provided in Chapter 215 of the Florida Statutes.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

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- (2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

N/A

- (3) any entitlement to a government service or benefit?

N/A

- b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

- (2) what is the cost of such responsibility at the new level/agency?

N/A

- (3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

N/A

- b. Does the bill require or authorize an increase in any fees?

N/A

- c. Does the bill reduce total taxes, both rates and revenues?

N/A

- d. Does the bill reduce total fees, both rates and revenues?

N/A

- e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

N/A

E. SECTION-BY-SECTION RESEARCH:

(See "Effect of Proposed Changes")

IV. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

See fiscal comments.

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

The bill will result in deposit of inmate welfare proceeds from the privately operated prisons into the Privately Operated Institutions Inmate Welfare Trust Fund. These funds will be available for appropriation by the Legislature. A comprehensive accounting of revenues generated to date has not been supplied by the Correctional Privatization Commission.

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V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

VI. COMMENTS:

N/A

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VIII. SIGNATURES:

COMMITTEE ON CRIMINAL JUSTICE APPROPRIATIONS:

Prepared by:

Legislative Research Director:

James P. DeBeaugrine

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**FINAL RESEARCH PREPARED BY COMMITTEE ON CRIMINAL JUSTICE
APPROPRIATIONS:**

Prepared by:

Legislative Research Director:

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