

STORAGE NAME: h4663z.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 4663

RELATING TO: Criminal Justice Trust Funds

SPONSOR(S): Criminal Justice Appropriations

COMPANION BILL(S):

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

- (1) CRIMINAL JUSTICE APPROPRIATIONS YEAS 7 NAYS 0
- (2)
- (3)
- (4)
- (5)

I. FINAL ACTION STATUS:

HB 4663 passed the House on April 23, 1998; in the Senate was substituted for SB 2496 and passed on May 1, 1998. Became law without Governor's signature on May 30, 1998. Chapter Law 98-388.

II. SUMMARY:

The bill terminates certain trust funds within the state courts system and Department of Corrections that have been determined to be no longer needed. The bill makes certain modifications to s. 945.215, F.S., relating to the Inmate Welfare Trust Fund within the Department of Corrections. The bill specifies receipts to be deposited into the Privately Operated Institutions Trust Fund and provides for allowable expenditures from the fund. The bill redirects certain receipts currently deposited into the Grants and Donations Trust Fund in the Department of Corrections into the Correctional Work Program Trust Fund and the Operating Trust Fund.

III. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Section 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 section also provides that the trust fund be used for a variety of education, training, faith-based and other programs that benefit inmates. 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.

Section 945.215, F.S., also allows the Department of Corrections to establish an Employee Benefit Trust Fund to benefit department employees.

Section 945.31, F.S., allows the Department of Corrections to collect administrative processing fees to cover the costs of collecting restitution and other payments and provides for the resulting revenues to be deposited into the department's Grants and Donations Trust Fund.

Section 945.76, F.S., provides that fees assessed for certification and monitoring of batterers' intervention programs and assessment personnel providing direct services are deposited into the Department of Corrections Grants and Donations Trust Fund.

Section 944.10, F.S., provides that revenues generated by the Department of Corrections from fees charged for providing inmate work crews to other governmental entities are deposited into the Department of Corrections Grants and Donations Trust Fund.

Section 948.09, F.S., provides for a \$1-per-day surcharge in addition to other costs of supervision be charged to offenders being electronically monitored and that the revenues generated be deposited into the Department of Corrections Grants and Donations Trust Fund.

Section 951.23, F.S., provides that any fees collected by the Department of Corrections for inspecting local detention facilities are to be deposited in the department's Grants and Donations Trust Fund.

B. EFFECT OF PROPOSED CHANGES:

The Appellate Opinion Distribution Trust Fund and the Working Capital Trust Fund within the state courts system would be terminated. The Hurricane Andrew Recovery and Rebuilding Trust Fund in the Department of Corrections would be terminated. In addition, statutory cross references to the terminated trust funds are deleted.

The bill clarifies current provisions in s. 945.215, F.S., relating to use of the Inmate Welfare Trust Fund and the Employee Benefit Trust Fund.

The bill provides that proceeds from inmate canteens, vending machines used primarily by inmates, telephone commissions and similar sources at private correctional facilities are to be deposited into the Privately Operated Institutions Inmate Welfare Trust Fund. The bill further provides that funds from the trust fund shall only be expended pursuant to legislative appropriation.

The bill provides that the following revenues currently deposited into the Department of Corrections Grants and Donations Trust Fund instead be deposited in the department's Operating Trust Fund:

- Administrative fees for collecting and distributing restitution and other court ordered payments;
- Certification fees for batterers' intervention programs and direct service personnel;
- \$1-per-day surcharge collected from inmates being electronically monitored by the department; and,
- Fees collected from local governments pursuant to agreements for the department to conduct inspection of local detention facilities.

The bill provides that fees collected by the Department of Corrections from local governments for the use of inmate work squads be deposited into the Correctional Work Program trust fund instead of the Grants and Donations Trust Fund.

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 have no direct impact on total state revenues or expenditures.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

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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:

The Criminal Justice Appropriations Committee adopted two amendments as follows:

1. Terminates the Working Capital Trust Fund in the Department of Corrections,
2. Technical wording change to language relating to collection and deposit of fees.

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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